II-III

CHURCH AND STATE

IN

NEW ENGLAND

JOHNS HOPKINS UNIVERSITY STUDIES
IN
HISTORICAL AND POLITICAL SCIENCE

HERBERT B. ADAMS, Editor

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TENTH SERIES

II-III

CHURCH AND STATE
IN
NEW ENGLAND

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BALTIMORE
THE JOHNS HOPKINS PRESS
February and March, 1892

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JOHN MURPHY & CO., PRINTERS.
BALTIMORE.

PREFACE.

The complete separation of church and state is an American doctrine. European governments have long maintained church establishments. The Puritan colonists of New England in the seventeenth century were not prepared to organize on principles that characterize the relations of church and state in America to-day. They followed the example of the mother country and united the civil and ecclesiastical organizations. They established the Congregational church and endeavored to maintain it by law against all opposition.

The design of this monograph is to give the history of the establishment, to point out the causes that led to the dis-establishment and also the steps by which the latter was brought about. The author aims, in this way, to trace the growth of religious liberty from the time of the first settlements to the final triumph of religious freedom in New England in 1834.

P. E. L.

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CHURCH AND STATE IN NEW ENGLAND.

CHAPTER I.

INTRODUCTORY.

A study of church and state in America may well begin with results of the Reformation in England. Puritan, Independent, Separatist, Pilgrim, were but the names of those zealous English Protestants who, no longer satisfied with the Church of Rome, stood for the reform of its doctrine and polity. The teachings of Wycliffe, Erasmus and Colet had prepared the way for the reform in England, and, whatever may have been Henry VIII.'s motive for declaring his ecclesiastical independence, there is little doubt that there was a considerable party ready to support him in his opposition to the Pope. The Defender of the Faith was far from ready to take up the cause of Protestantism; nevertheless, the advocates of reform saw in the separation from Rome a point gained for their cause. The dissolution of the monasteries which followed gave the death-blow to the Catholic hierarchy in England and undermined the whole Catholic party; and, more than that, it raised up a party which not alone from principle but from self-interest opposed every effort to re-establish Catholicism. In this way again the King aided the cause of the reformers. Henry VIII., however, was at heart a Catholic and he aimed to enforce a Catholicism, with himself as Pope, upon the English people. The Statute of Six Articles

passed in his reign made it a crime punishable by death to write, preach or dispute against transubstantiation; celibacy of the clergy and auricular confession were insisted upon. Aside from these and some minor points the King was not unwilling to be more or less liberal to the Protestants. He at one time permitted an English translation of the Bible to be used in every parish church; but even this privilege was abridged a few years before the King's death.

The reign of Edward VI. is marked by the effort made to establish Protestantism. Images were removed from the churches; auricular confession was made optional with each individual; marriage was allowed to the clergy; the sacrament of the altar was administered in both kinds. Hallam tells us that the Roman worship was proscribed; that many persons were sent to prison for hearing mass, and that Mary herself was not permitted to have the exercise of her religion at home.[1] Parliament made it penal for any minister to use in any cathedral, parish or church any other than the Book of Common Prayer. In this way uniformity of service was to be secured. The Six Articles of Henry VIII. were repealed. A Book of Homilies embodying the doctrines of Cranmer was compiled and ordered to be read in the churches. The Forty-two Articles of Religion were introduced as the standard of doctrines. Subscription to these Articles was demanded of all clergymen, church-wardens and school-masters. The Reformation in England under Edward tended towards a Calvinistic theology and Zwinglian ceremony. "The new Prayer-book," says Green, "was revised, and every change made in it leaned towards the Protestantism of Geneva."[2] It must be remembered, however, that the great body of English people was Catholic and consequently there was no little opposition to these reforms. It was, therefore, inexpedient for

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[1] *Constitutional History of England*, Vol. I, Chap. II, p. 106. The references are to the Standard Edition.

[2] Green's *Short History of the English People*, p. 366.

the English reformers to go as far as those of the continent wished them to go. Cranmer thought it wise to retain some of the ceremonial usages. He refused to do away with the copes and rochets of the bishops and the surplice of the priest. On account of this and in spite of all the sweeping changes that had been made, some of the continental reformers did not hesitate to utter their dislike of "the backwardness of the English Reformation." But there is no doubt that it approached in both doctrine and ritual as near to Protestantism as the circumstances of the time would permit. The position taken by the English church was midway between Catholicism and Protestantism. It satisfied neither party; its authority had now to be maintained by persecution of Catholic and Protestant alike.

At the accession of Mary the realm was brought back to the old religion. The Anti-Catholic acts passed in the reigns of Edward and Henry were swept away. Many of the nobility and a large part, perhaps a majority, of the people supported Mary in the return to Catholicism. Her marriage with Philip of Spain, however, made her unpopular; it also "created a prejudice against the religion which the Spanish Court so steadily favored."[1] In addition to this, her widespread and cruel persecution of the Protestants alienated many of her subjects. Hallam tells us, on the authority of Strype, that many became Protestants under Mary who, "at her coming to the throne, had retained the contrary persuasion."[2] Persecution drove Protestants out of the realm. Some of them took refuge in Switzerland, others in Germany. Calvin and Zwingli received the exiles kindly, but Luther had little sympathy with them. During their stay in Geneva and other parts of Switzerland they observed the simplicity of worship so characteristic of the Zwinglian churches. Here they saw the affairs of church and state administered by the people. By a majority of votes the people chose their ministers. That

[1] Hallam, Vol. I, p. 115.

[2] *Const. Hist.*, I, 115.

form of worship was adopted which had been agreed upon by the voters. There was here no hierarchy with the King at its head. Here the English exiles saw and learned democratic government. For some of them this became the ideal church government. The proof of this is the rise of the Independents in England a few years later.

The accession of Elizabeth in 1558 brought a return to Protestantism. Elizabeth, like Cranmer, seemed to recognize that many of the English people were Catholic. She made it her policy to avoid extremes. The position that the Church of England had taken midway between the old and new religions Elizabeth endeavored to maintain. She brought back into service Edward VI.'s Prayer-book altered but little. The Forty-two articles drawn up under Edward, revised and reduced to thirty-nine, again became the standard of doctrine. By the Act of Supremacy she rejected the papal authority over the English Church but she did not assume the title of Supreme Head of the Church, as her father had done. In doctrine she may be said to have taken the position of a Protestant. In ceremony she inclined toward the Catholic. She had a struggle with the reformers about images and particularly the crucifix. In 1559 she yielded and ordered them to be taken out of the churches. As to the celibacy of the clergy she never could be brought to adopt the Protestant view; she never would consent to make their marriage lawful. Conflicts with Catholics and Protestants were inevitable. Elizabeth was firm in maintaining her ecclesiastical supremacy. She determined to secure outward conformity to the religion she had established. To carry out her determination persecuting acts against Catholic and Protestant sectaries had to be passed. This policy of coercion was maintained by her throughout her reign.

Elizabeth's struggle with the Catholics was no less a political than a religious one. Mary, Queen of Scots, was asserting her claim to the English crown. The Catholics were, doubtless, in sympathy with her, and supported and encouraged by

an organized band of Jesuits, they were a source of danger to Queen Elizabeth. It is not surprising that their zeal for Mary's cause brought upon them the suspicion of disloyalty. But there was more than disloyalty; there is evidence of a plan to assassinate Elizabeth that Mary of Scotland might be placed on the throne. There is, therefore, at least a partial justification for the severe persecution that the Catholics endured in this reign.

The struggle with the Protestants was more religious than political. Those who had been exiled in the reign of Mary now returned home from Switzerland and were thoroughly determined to set up a church with as simple a worship as they had seen in Geneva. They believed that the vestments worn by the clergy, if of no importance in themselves, recalled their former superstition. From vestments to Catholicism was but a short step. "Such eminent churchmen as Jewell, Grindall, Sandys, Newell, were in favor of leaving off the surplice and what were called the papish ceremonies."[1] The party favoring these reforms was called Puritan in reproach of their demands for a pure worship. There was in the church another party represented by Parker and the Bishop of Ely. Their ideas of the Reformation were like those of Elizabeth; in doctrine they were thoroughly Protestant, in ceremony they inclined to the Catholic. They were not willing at a blow to remove vestments, images and all that was dear to the hearts of thousands of Englishmen. They wished to give as little shock as possible to the many loyal Catholics. They aimed to change only those forms and ceremonies which they considered absolutely necessary to change, and to retain as much of the old as they could. These two parties were, at first, but factions of the great Protestant party. The points on which they agreed were far more important than those upon which they differed. Their long continued disputes on their differences, however, made them forget their common principles

[1] Child's *Church and State under the Tudors.*

and aims. These were relegated to the background, while their wranglings about mere habits and ceremonies were brought forward. The two factions were alienated and became bitter political enemies.

In the year following the accession of Elizabeth the Act of Uniformity was passed. This act brought into use the revised Book of Common Prayer; it provided a penalty for any parson, vicar and other minister using any but the established liturgy; it made attendance at the parish church on Sunday and holidays compulsory. Both this act and the Act of Supremacy were, at first, cautiously enforced. The consciences of some of the Puritans would not allow conformity to the rites of the church. The Puritan laymen held their secret meetings. The Puritan clergymen managed to evade the laws and to adopt ceremonies more in accordance with their tastes. "Some clergymen continued to wear the habits, others laid them aside. The communicants received the sacrament sitting, or standing, or kneeling, according to the ministers' tastes."[1] The malcontents were growing more numerous every day. Elizabeth determined to enforce the laws more rigorously. In 1565 an effort was made to put a stop to the irregularities in worship. "Two of the most eminent Puritans were deprived of their preferments; and thirty-seven of the London clergymen refusing to comply with the legal ceremonies, were suspended from their ministry and threatened with punishment of deprivation."[2] The Puritans in Parliament introduced Bills for abolishing various ecclesiastical rites and ceremonies. To all these proposed reforms the Queen stood rigidly opposed.

As the Protestant party had become divided into two factions, so now one of these, the Puritan, became divided. The larger part continued their struggle without leaving the church. They hoped by their influence in Parliament and in

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[1] Hallam, Vol. I, p. 182.

[2] Taswell-Langmead, *English Constitutional History*, p. 477.

the Council to bring about their reforms. This part retained the name Puritan. Geneva is said to have been at once the strength and weakness of the Puritan; his strength because here he saw his ideal realized; his weakness because it taught him to try to get his reforms through the state.

To the other, the smaller faction, observance of a ritual which they considered idolatrous was sin. To them the idea of a *national* church was repulsive. They believed that a church is a company of believers organized in the name of Christ, independent of civil or other ecclesiastical organization. With such a conception of a church they claimed it to be their right to separate from the Church of England and to organize for themselves. They were called Brownists after one of their leaders, or Barrowists after another. As early as 1580 Robert Brown began to promulgate his doctrines. Any number of Christians, themselves choosing and ordaining their pastors, and administering all their ecclesiastical affairs,—a body entirely independent of the civil power,—was his ideal church. Dr. H. M. Dexter in his Congregationalism of the Last Three Hundred Years claims that to Robert Brown is due the proud distinction of first advocating in the English tongue the modern doctrine of the relation of church and state.[1] Brown deserted the Brownists but his associate, Harrison, took his place. The little company never wanted leaders. After Brown and Harrison came Copping and Thacker, then Greenwood and Barry, then Johnson and Penry. By 1592 there were said to be more than 20,000 Brownists in England. "As they went far beyond the Puritans in their aversion to the legal ministry, they were deemed in consequence still more proper subjects for persecution."[2] Barrow and Greenwood were indicted for spreading seditious writings. For six years they lay in prison where they wrote, as they had opportunity, short statements of their views and doctrines. These were sent to Holland to be printed and then

[1] Dexter, p. 101.

[2] Hallam, Vol. I, p. 216.

returned to England for circulation. One of these papers "preserved in the state records, endorsed by Jerome Studley, one of the Separatist prisoners," has the following statements: "The church as it is seen in this present world, consisteth of a company and fellowship of faithful and holy people, gathered in the name of Christ Jesus, their only King, Priest and Prophet, worshipping Him aright, being peaceably and quietly governed by his officers and laws, keeping the unity of the faith in the bond of peace and love unfeigned.

"We seek to worship and obey Christ as our only King, Priest and Prophet: and to our prince we are humble and obedient subjects in all things which are not repugnant to God's laws.

"There is no power given the prince to restrain any jot or liberty of the Church or to withhold any one person from doing the whole will of God in their calling, much less is there any power given the prince to draw or compel the Church, or any member thereof, to the least transgression or error."[1]

Here the church and state were differentiated. There seems to be little doubt that these Brownist prisoners had as early as 1597 the modern view of the relation between church and state.

England had no place for such views in the seventeenth century. The most of the Brownists were put down by persecution. One little band had organized themselves into a church at Scrooby in Nottinghamshire. Their minister was "Mr. Richard Clifton, a grave and reserved preacher. Among them was that famous and worthy man, Mr. John Robinson"[2] and Mr. William Brewster. They endured persecution until 1608 when they took refuge in Holland, which had been for many years an asylum for religious exiles. As early as 1593 a band of Brownists had fled from London and

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[1] Waddington's *History of Congregationalism*, Vol. II, p. 32.

[2] Bradford's *History of Plymouth Plantation*, p. 10. *Mass. Hist. Society Col.*, Vol. III, IV Series.

had organized a church at Amsterdam. Later a second congregation who were of "sundry towns and villages, some in Nottinghamshire, some of Lincolnshire, and some of Yorkshire, with their pastor, John Smith,"[1] joined their brethren in the Netherlands. Here they aimed to carry out the principles of Brownism to their full extent. Controversies with the reformers of the continent and disputes among themselves soon arose. There was much dissension among them when the Pilgrims from Scrooby with their pastor, John Robinson, arrived. Bradford says: "And when they had lived at Amsterdam about a year, Mr. Robinson, their pastor, and some others best discerning, seeing how Mr. John Smith and his company were already fallen into contention with the church that was there before them, and no means they could use would do any good to cure the same, and also that the flames of contention were likely to break out in the ancient church itself; which things, they prudently foreseeing, thought it was best to remove, before they were any way engaged with the same. For these and some other reasons they removed to Leyden."[2] Here "they fell to such trades and employments as they best could; valuing peace and their spiritual comfort above any other riches whatever. And at length they came to raise a competent and comfortable living but with hard and continued labor."[3] Their relations with the Dutch were pleasant. They were readily employed because of their honesty and faithfulness. "The Dutch would trust them in any reasonable matter when they wanted money."[4] There were, however, many objections to their making Leyden their permanent home. After they lived there about twelve years they began to think of emigrating to another country. The following are the chief reasons as given by Bradford for their removal from Holland to America. (1) "Great labor and hard fare, with other inconveniences"[5] had to be endured.

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[1] Bradford, p. 9. [2] Bradford, p. 17.
[3] Bradford, p. 17. [4] Bradford, p. 19. [5] Bradford, p. 24.

"Some preferred and chose prisons in England rather than liberty in Holland with those afflictions. But it was thought that if a better and easier place of living could be had, it would draw many and take away these discouragements." (2) They saw "old age began to come on some of them; and their great and continued labors, with other crosses and sorrows, hastened it before the time; so as it was not only probably thought, but apparently seen, that within a few years more they were in danger to scatter by necessity pressing them, or sink under their burdens, or both; and, therefore, according to the divine proverb, that 'a wise man seeth the plague when it cometh, and hideth himself,' so they, like skillful and beaten soldiers, were fearful either to be entrapped or surrounded by their enemies, so as they should neither be able to fight nor fly; and, therefore, thought it better to dislodge betimes to some place of better advantage and less danger, if any could be found." (3) They saw that their children "were drawn away by evil examples into extravagant and dangerous courses, getting the reins on their necks, and departing from their parents. Some became soldiers, others took them upon far voyages by sea, and others some worse courses, tending to dissoluteness and the danger of their souls, to the great grief of their parents and the dishonor of God; so that they saw that their posterity would be in danger to degenerate and be corrupted." (4) "Lastly (and which was not the least), a great hope and inward zeal they had of laying some good foundation, or at least to make some way thereunto, for the propagating and advancing of the Gospel of the kingdom of Christ in these remote parts of the world; yea, though they should be put as stepping-stones unto others for performing of so great a work." To these reasons may be added those given by Edward Winslow in his Brief Narrative.[1] They are: (1) the desire to live under the protection of England and retain the language and name of Englishmen;

[1] As given in Baird's *Religion in America*, p. 99.

(2) their inability to give their children such an education as they had themselves received; (3) their grief of profanation of the Sabbath in Holland.

It is thus made plain why the Separatists came to America. Their objects seem to have been largely prudential. While this is true we must not forget that the master motive in all was their desire to set up their ideal church, to worship as their consciences dictated. This explains their leaving their native land. In Holland they enjoyed religious liberty but their temporal prospects discouraged them. They had to seek a new home where they might have liberty and, at the same time, permanent economic prosperity. Many places were considered but America was decided upon. Though under English dominion the Pilgrims hoped to enjoy to some degree their peculiar religious worship. They even tried to get the King's consent to freedom in America. Bradford says:[1] "And some of the chief of that company doubted not to obtain their suit of the King for liberty in religion, and to have it confirmed under the King's broad seal, according to their desire. But it proved a harder piece of work than they took it for; for though many means were used to bring it about, yet it could not be effected; for there were diverse of good worth labored with the King to obtain it (amongst whom was one of the chief secretaries), and some others wrought with the Archbishop to give way thereto; but it proved all in vain. Yet, thus far they prevailed in sounding His Majesty's mind, that he would connive at them and not molest them, provided they carried themselves peaceably. But to allow or tolerate them by his public authority, under his seal, they found it would not be." The Pilgrim Fathers did not have a great deal of confidence in this assurance of the King, but so great was their desire to improve their condition that they were willing to take a little risk in religious liberty. They were willing even to take the oath of supremacy if it were

[1] Bradford, p. 29.

required of them, and if it were not sufficient to take the oath of allegiance. We have seen that the Separatists had differentiated the church and state. They had advocated the now accepted ideas of the relation between the two. The Barrow and Greenwood prison writings show that they held that no power was given the prince to control, in the slightest degree, the religion of his subject. All the more difficult does it become to explain the following articles which were drawn up while the Pilgrims were negotiating with the Virginia company. They were sent to enable the company to answer any objection to their plans on the part of the Crown or the High Church party.

"(1). To the confession of faith published in the name of the Church of England, and to every article thereof, we do with the reformed churches where we live, and also elsewhere, assent wholly.

"(2). As we do acknowledge the doctrine of faith there taught, so do we the fruits and effects of the same doctrine to the begetting of saving faith in thousands in the land (conformists and reformists as they are called), with whom also, as with our brethren, we do desire to keep spiritual communion in peace, and will practice in our parts all lawful things.

"(3). The King's Majesty we acknowledge for supreme governor in his dominion in all causes and over all persons, and that none may decline or appeal from his authority or judgment in any cause whatsoever, but that in all things obedience is due unto him, either active, if the thing commanded be not against God's word, or passive, if it be, except pardon can be obtained.

"(4). We judge it lawful for His Majesty to appoint bishops, civil overseers or officers in authority under him, in the several provinces, dioceses, congregations or parishes, to oversee the churches and govern them civilly according to the laws of the land, unto whom they are in all things to give account, and by them to be ordered according to godliness.

"(5). The authority of the present bishops in the land we do acknowledge, so far forth as the same is indeed derived from His Majesty unto them and as they proceed in his name, whom we will also therein honor in all things and him in them.

"(6). We believe that no synod, class, convocation or assembly of ecclesiastical officers has any power or authority at all, but as the same by the magistrate given unto them.

"(7). Lastly, we desire to give unto all superiors due honor, to preserve the unity of the spirit with all that fear God, to have peace with all men what in us lieth, and wherein we are to be instructed by any." [1]

Doyle commenting on these articles says: "On the surface they look like an unconditional acceptance of what by anticipation one may call Erastianism. They seem to contain a definite acknowledgment that all ecclesiastical authority must proceed from the civil power and be responsible to it. A careful inspection, however, shows that the more important concessions are qualified by distinct, though cautiously expressed, reservations. In the first article the acceptance of the confession of faith published by the Church of England is limited by the introduction of the reformed churches of Holland as partners in that acceptance. So the promise of obedience to the King's authority is modified by the condition that the thing commanded be not against God's word, a condition which might easily be so interpreted as to nullify the general admission. Yet even if we presume the most favorable interpretation of these Articles, the fourth contained an admission of the right of the State to control religion, which seems strangely at variance with the recognized doctrines of the Nonconformist. In truth, we must look on these seven Articles not so much as an exposition of faith but rather as conditions of agreement." [2]

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[1] Quoted in Doyle's *Puritan Colonies*, Vol. I, p. 37.

[2] Doyle, *Puritan Colonies*, Vol. I, Chap. II, p. 38.

There is no doubt that concessions had to be made, and with a wide expanse of ocean between them and the High Commission Court, the Pilgrims could easily consent to submit their church to the control of the state. Were they, by doing so, surrendering any of their fundamental doctrines? As there were differences of opinion on various matters among the Brownists, the idea suggests itself that not all Separatists were opposed to the state's control over the church; further, they believed in a *Congregational* but not in a *National* church. The principle of the complete separation of church and state may have been recognized but as one of their fundamental principles it had not taken hold of the Pilgrims. They thought it well to leave the state to control civilly only, and to permit religious toleration. Should there be, however, any occasion for state interference in ecclesiastical affairs, as for the proper maintenance of ministers, the Pilgrim Fathers themselves would readily consent to it as their history in America will show. The separation of church and state was a new principle, and though asserted by the Separatists under persecution in England, was not held to by them in America. When they established themselves at Plymouth their church had no direct connection with the state. It was free, dependent upon the state for nothing but protection. Further, their experience with the Church of England and their residence in Holland where they saw religious toleration, taught them to pay a proper respect to those not of their creed. A liberal, charitable policy toward those of other beliefs always prevailed at Plymouth. But that they believed that it belonged to the state to decide as to what religions should be tolerated is evident from the resolution offered in the House of Delegates in 1645. A majority was in favor of an act "to allow and maintain full and free toleration to all men that would preserve the civil peace and submit unto the government; and there was no limitation or exception against Turk, Jew, Papist, Arian, Socinian, Nicolaitan, Familist or any other."[1]

[1] Bancroft's *History of the United States*, Vol. I, p. 214.

Here was an act that would have been lasting honor to Plymouth, but the governor would not put the question and so it failed to become a law. Not long after this, more direct legislation concerning the church was thought to be necessary, and in 1650 it was forbidden to set up any churches or public meetings diverse from those already set up, without the consent and approbation of the government. In 1651 a penalty of ten shillings was imposed for neglect of church attendance.[1] At first, ministers were supported by voluntary contributions, but they had a hard time of it. Some of them had to leave their churches for lack of support. In 1655 a law was passed that no pastor should leave his congregation for this cause without notifying the magistrates.[2] The latter were then to use gentle means to bring about the pastor's support, and if they failed, they should use other means. In 1657 the union of church and state became more intimate; public worship was maintained and taxes were levied for the support of ministers. The following is the law:

"Whereas, the General Court taking into their serious consideration the great defect that either is or like to be in the several townships in this jurisdiction for want of an able, godly, teaching ministry and the great prejudice to the souls of many like to ensue; and being desirous according to our duties that such defect should not be for want of due encouragement to such as either are or shall be employed in so good a work of the Lord for his honor and the good of souls: and in consideration that inasmuch as the several townships granted by government was that such a company might be received as should maintain the public worship and service of God there, do therefore judge that the whole, both church and town, are mutually engaged to support the same; and therefore order and agree that in whatsoever township there is or shall be an able godly teaching minister which is approved by the government,

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[1] See *Records of Plymouth Colony*, Vol. XI, p. 57.
[2] *Records*, Vol. XI, p. 64.

that then, four men be chosen by the inhabitants or, in case of their neglect, chosen by any three or more of the magistrates to make an equal and just proportion upon the estates of the inhabitants, according to their abilities to make up such a convenient maintenance for his comfortable attendance on his work, as shall be agreed upon by the church in each township where any is, with the concurrence of the rest of the inhabitants, if it may be had, or by the magistrates aforesaid, in case of their apparent neglect and that distress according as in other just cases provided, be made upon such as refuse to pay such their proportions which is justice due: but in case there be any other way whereby any township do or shall agree that may effect the end aforesaid, this law not to be binding to them."[1] The records of the Court show that this law was enforced. There are numerous cases of delinquents in ministerial rates, all of whom, unless excused for good reason, were compelled to pay. Their history, therefore, shows that, whatever may have been the views of Robert Brown and his immediate followers as to the relation of church and state, those views had not been sufficiently inculcated to form a part of the Pilgrims' creed. They placed the church under the patronage of the state and so it continued for many years in America.

Before the Pilgrims left the Mayflower they organized a "civil body politic." Their form of government was democratic. Every freeman had a voice in the administration of the state. By a majority of the votes the Governor and his assistants were chosen. These constituted the Court. The whole body of freemen was the legislative assembly; but executive and judicial business was also transacted by this body.

The second colony in Massachusetts was settled on Massachusetts Bay in 1629. The Puritans in England began to lose hope of reforming the Church of England. Many became Non-conformists and persecution followed. Their eyes

[1] *Records*, Vol. XI, p. 67.

were now turned toward the colony at Plymouth. The fishing station at Cape Ann had proved a failure. Rev. John White conceived the idea of establishing there a colony of another sort. The Separatists had found a home in the new world, could not Non-conformists find a refuge there, too, was asked by the Puritan minister. Several pamphlets were published, one of which, "General Considerations for Planting New England," is credited to Mr. White.[1] In this pamphlet the author argues for a religious colony across the sea. The economical advantages of colonization are mentioned but they are given as minor rather than as leading points. America might furnish a home for Non-conformists and at the same time a field for the propagation of the Gospel. These were the ideas that were in the minds of the six Dorchester gentlemen that obtained from the New England council a grant for all the territory from the Merrimac on the north to a point three miles south of Charles river. "These gentlemen," says Hubbard,[2] "were brought into acquaintance with several other religious persons of like quality," who became partners in the colony. The company, in order to secure their lands against conflicting claims, obtained from the King a confirmation of their grant. A royal charter was obtained and in 1629 the company became a body politic under the title of The Governor and Company of the Massachusetts Bay in New England. The administration was intrusted to a governor, a deputy and eighteen assistants who were annually elected by the freemen or members of the corporation. The Governor and his assistants held monthly meetings. Four times a year they met together with all the freemen in one great General Court. The government of the colony rested entirely with this court; it could make any laws provided they were not contrary to the laws of England. The Governor, his deputy or two assistants might administer the oaths of allegiance and supremacy but it was not required to do so.

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[1] It is also credited to Mr. Winthrop.

[2] *History of New England.*

Before the royal charter had been obtained John Endicott was sent out by the company to take possession of the land that had been granted. He established a colony at Salem. In the following year another company of Puritans crossed the Atlantic to join their brethren. In this company were the two ministers Higginson and Skelton who afterwards became teacher and pastor respectively of the Salem church.

When the Puritans came to Massachusetts they had very little sympathy with the Separatists. But we noticed that the Plymouth colony, in taking the church under the patronage of the state, followed the European custom—a custom from which the Puritans did not care to deviate. The Puritans and Separatists were thus brought closer together. The first step in this direction, however, was taken by the Salem colony. Bradford tells us that before the main body of Puritans arrived, "scurvy and other infectious fevers had spread among the people at Salem. Mr. Endicott understanding that there was one at Plymouth that had skill in such diseases sent thither for him; at whose request he was sent unto them. And afterwards acquaintance and christian love and correspondency came on betwixt the Governor and Endicott."[1] This physician, a Mr. Fuller, gave Mr. Endicott good advice concerning the religious constitution of his settlement. The advice was not unheeded. Before organizing their church they consulted "with their brethren at Plymouth what steps to take." "And the Plymoutheans to their great satisfaction laid before them what warrant they judged that they had in the laws of our Lord Jesus Christ, for every particular in their Church-order."[2] The democratic system at Plymouth was used as the pattern for the church of Salem. Mr. Punchard, however, thinks that the Salem church came to adopt the Congregational form from an independent study of the Bible.[3] The study of the Bible and the example of the

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[1] Bradford, p. 264. [2] Cotton Mather's *Magnalia*, Bk. I, Chap. IV, Sec. 6.
[3] *History of Congregationalism*, Vol. IV, pp. 27–28.

Plymoutheans may fairly be said to have made the Salem church Congregational. The Governor set apart the 20th of July, 1629, for the choice of a pastor and teacher. In a letter dated Salem, July 30, 1629, Charles Gott, writing to the Plymouth governor gives an account of the organization of the church. He says: "So Mr. Skelton was chosen pastor, and Mr. Higginson to be teacher; and they accepting the choice, Mr. Higginson with three or four of the gravest members of the church laid their hands on Mr. Skelton, using prayer therewith. This being done, there was imposition of hands on Mr. Higginson also. And since that time, Thursday (being, as I take it, the 6th of August), is appointed for another day of humiliation for the choice of elders and deacons and ordaining of them."[1] Non-conformity in England had become Separatism in America.

In the colonies at Plymouth and Salem we have the ecclesiastical beginnings of Massachusetts. In both, the church was Congregational. At Plymouth not only the church but the state was democratic. At Salem the government under Endicott was but temporary; when it became permanent it was established on a democratic basis. At Plymouth the church was for a short time independent of the state; in the other colony the church and state were from the beginning intimately associated.

[1] Bradford, p. 266.

CHAPTER II.

The Civil and Ecclesiastical Beginnings of New England.

The colonies at Plymouth and Salem laid the foundations of the commonwealth of Massachusetts. The Old Colony, that at Plymouth, grew by extending itself principally toward the north. The reason for this, as Bradford tells us, was "the inflowing of many people into the country, especially into the Bay of Massachusetts; by which means corn and cattle rose to a great price, by which many were much enriched, and commodities grew plentiful."[1] Everybody wanted to leave Plymouth and go north to cultivate large farms and raise cattle. There seemed to be a fever like that of the California gold fever in 1849. Little Plymouth was likely to be deserted and, in fact, it "was left very thin, and in a short time almost desolate."[2] There was objection to this scattering of the people not only because it left Plymouth desolate but because the church was likely to suffer. Those who had gone to live on their farms and ranches, found it very inconvenient to attend church at Plymouth, and soon petitioned the government for permission to organize a new church. This permission was given "though very unwillingly."[3] This was the beginning of a new town; in 1637 Duxbury was constituted a township.[4] The old colony was materially weakened by the withdrawal of many of its citizens. Measures were at once

[1] Bradford, p. 302.
[2] Bradford, p. 303.
[3] Bradford, p. 306.
[4] *Records*, Vol. I, p. 62.

taken to prevent further scattering of the people. In order to give Plymouth citizens the advantages that the Duxbury people enjoyed, it was decided to allot a number of farms at Green Harbor, on condition that those who accepted them should continue their residence at Plymouth. The farms were to be cared for by servants. "But alas! this remedy proved worse than the disease; for within a few years those that had thus got footing there rent themselves away, partly by force, and partly wearing the rest with importunity and pleas of necessity, so as they must either suffer them to go or live in continual opposition and contention."[1] Thus was Plymouth deserted. Its citizens were continually leaving to find more commodious habitations. And this, Bradford thought, would be the ruin of New England, at least, of the churches of God there, and would provoke the Lord's displeasure against them. A third town and church were established at Scituate. In spite of the efforts of the Governor and his assistants to keep the colonists at Plymouth, they kept spreading all along the coast and to some extent inland. The mother colony could not prevent this extension and she began to have fear of losing her distinction as capital of the colony. Consequently, the following law was passed in 1633: "It was by full consent agreed upon and enacted that the Chief Government be tied to the town of *Plymouth*, and that the Governor for the time being, be tied there to keep his residence and dwelling; and there also to hold such court as concern the whole."[2]

By the year 1692 when Plymouth ceased to be independent, there were under the government seventeen incorporated towns and three plantations, containing 13,000 inhabitants. In all the towns, except three, the Congregational church had been established and provision had been made for its support.

In the same year in which the royal charter had been granted to the Puritans, Mr. Winthrop and nine others assumed the stock and liabilities of the company in considera-

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[1] Bradford, p. 303.

[2] *Records*, Vol. I, p. 16.

tion of certain monopolies. The new company at once decided to transfer the charter and the entire organization based upon it to America. Puritan emigration became, in consequence, very brisk in the following Spring and Summer. The first to come were a company of about one hundred and fifty, chiefly from Dorchester. They organized themselves into a church before leaving England, by choosing a pastor and teacher in a manner like that of the Separatists. John Maverick was elected pastor, and John Warham teacher. In America they settled in a place which they called Dorchester after their English home. This company was followed by about fifteen hundred Puritan emigrants, who established themselves at Charlestown, Watertown, Roxbury and other places. One year after Winthrop's arrival there were eight separate settlements in existence, extending along the coast from Salem to Dorchester, and inland as far as Watertown. By 1640 Puritan enterprise had established eighteen plantations and had organized twenty Congregational churches. There is no doubt that extension would have been even more rapid were it not "for the strong desire for Congregational unity and for religious ministration, which, coupled with the lack of clergy, kept this process from going yet further."[1] Nevertheless, Puritans from the Massachusetts colony began to fill not only Massachusetts but Connecticut, New Hampshire and Maine, and also Rhode Island. In nearly all the plantations or settlements of townships, a church was set up, and, in fact, around the church the township was organized.

In considering the government of Massachusetts in relation to the church, we must remember that until 1692 there were two separate governments, and in them the relations of church and state were not exactly similar. In connection with the Articles of Agreement submitted to the Virginia Company, the history, in part, of the Plymouth colony has already been considered. The church placed first upon a voluntary basis,

[1] Doyle, Vol. I, p. 103.

was taken as early as 1657 under the patronage of the state and maintained in many towns by a tax upon the people.

From the beginning church and state were intimately associated in the Massachusetts Bay colony. In 1631 "to the end that the body of the commons may be preserved of honest and good men, it was (likewise) ordered and agreed that for time to come no man shall be admitted to the freedom of this body politic, but such as are members of some of the churches within the limits of the same."[1]

The General Court assumed that all inhabitants, whether citizens or not, received the benefit of both state and church, and were under obligations to support both. In 1638 the court declared that "every inhabitant in any town is liable to contribute to all charges, both in church and commonwealth, whereof he doth and may receive benefit; and withal it is also ordered, that every such inhabitant who shall not voluntarily contribute proportionately to his ability, with other freemen of the same town, to all common charges, as well for upholding the ordinances in the churches as otherwise, shall be compelled thereto by assessment and distress to be levied by the constable, or other officer of the town."[2] And this is not all; the inhabitants were required to attend upon the Lord's day the preaching provided for them. Absence from church rendered the offender liable to a fine of five shillings or imprisonment.[3]

In 1644 there was passed the following law directed against the Baptists: "It is ordered and agreed that if any person or persons within this jurisdiction shall either openly condemn or oppose the baptizing of infants, or go about secretly to seduce others from the approbation or use thereof, or shall purposely depart the congregation at the administration of the ordinance, or shall deny ——— and shall appear to the Court willfully and obstinately to continue therein after due time and means

[1] *Records of Mass.*, Vol. I, p. 87.
[2] *Records*, Vol. I, p. 240.
[3] *Records*, Vol. I, p. 140.

of conviction, every such person or persons shall be sentenced to banishment.[1]

In 1648 the General Court formally approved the Cambridge Platform, thereby declaring it to be "the duty of the magistrate to take care of matters of religion, and to improve his civil authority for the observing of the duties commanded in the first as well as in the second table." This part of the Platform was retained in the "Confession of Faith owned and consented to by the elders and messengers of the churches assembled at Boston in New England May 12, 1680."[2]

Every town had to be supplied with a minister, and make provision for his support. The law of 1654 says: Forasmuch as it highly tends to the advancement of the Gospel that the ministry thereof be comfortably maintained, and it being the duty of the civil power to use all lawful means for the attaining of that end, and that henceforth there may be established a settled and encouraging maintenance of ministers in all towns and congregations within this jurisdiction, this court doth order that the County Court in every shire shall (upon information given them of any defect of any congregation or township within the shire) order and appoint what maintenanre shall be allowed to the ministers of that place, and shall issue out warrants to the select men to assess, and the constable of the said town to collect the same, and distrain the said assessment upon such as shall refuse to pay; and it is hereby declared to be our intentions that an honorable allowance be made to the ministry respecting the ability of the (inhabitants), and if the towns shall find themselves burdened by the assessment of the County Court, they may complain to this court, which shall at all times be ready to give just relief to all men.[3]

In 1658–9 the Massachusetts law against Quakers was severe. They were banished from the colony and if found

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[1] *Records*, Vol. II, p. 85.

[2] Cotton Mather's *Magnalia*, Vol. II, Bk. V, Chap. XVII of Confession.

[3] *Records of Mass.*, Vol. III, p. 354.

within its jurisdiction after once exiled, they were to be put to death.[1] It is not necessary to state all the laws touching the church, made by Massachusetts in her early history. Those that have been quoted plainly show what the relations of church and state were. And it is to be remembered that not Plymouth but the stronger Puritan colony dominated after the union of 1691. Plymouth had set the example for the ecclesiastical organization, but, politically, the Puritans of Massachusetts Bay took the lead. And not only in Massachusetts did Puritan principles, laws and usages prevail, but throughout the greater part of New England. Under the Charter of 1691 every law had to have the consent of the Governor, and then it could be disallowed by the King in Council. "William intended by this," says Isaac Backus, "to prevent their making any more persecuting laws, and it had that effect fifty years after when Connecticut imprisoned men for preaching the Gospel, but Massachusetts could not do so."[2] It is true that laws were more liberal after than before 1691.

In regard to religious liberty the Charter said: "And for the greater ease and encouragement of our loving subjects inhabiting our said province or territory of the Massachusetts Bay, and of such as shall come to inhabit there, we do by these presents, for us, our heirs and successors, grant, establish and ordain, that forever hereafter there shall be a liberty of conscience allowed in the worship of God to all Christians (except papists), inhabiting or which shall inhabit or be resident within our said province or territory." However, at the first meeting of the General Court under the Charter a law was made compelling every town to "take due care, from time to time, to be constantly provided of an able, orthodox, learned minister or ministers of good conversation, to dispense the Word of God to them; which minister or ministers shall

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[1] *Records*, Vol. IV, Part I, pp. 349, 367.

[2] *Church History of New England*, p. 126, Edition of 1839.

be suitably encouraged and sufficiently supported and maintained by the inhabitants of such towns."[1] The courts were empowered to punish every town that neglected to make such provision. The selection of the minister was left to the voters of the town. Such was the attitude of Massachusetts towards the church. The church established by law had much to contend with in the less favored opposing sects. Not until after two centuries of struggle, was the State brought to adopt the policy of religious freedom.

Long before the Pilgrims had reached Plymouth a little colony had been planted on the shores of Maine. As early as 1607 George Popham and Raleigh Gilbert conducted a company of pioneers across the Atlantic and established a colony at Sagadahoc. They landed at first on an island. On the Sunday following their arrival, religious services were held and their minister, Mr. Seymour, delivered a sermon. Ten days later, after having decided upon Sagadahoc as their permanent station, they again listened to a sermon by their pastor. These religious services were doubtless held according to the rites and ritual of the Church of England.[2] At Sagadahoc they intended to plant a great state. An aristocratic form of government was organized, and ordinances and statutes were agreed upon and made public. The state, if it may be called such, endured but a year. The hardships of a New England winter in an unbroken wilderness were more than the colonists could bear. In the following year they returned to England to report that New England was a cold, barren country not inhabitable by the English nation.

The early history of Maine is unlike that of the rest of New England. We are reminded of the southern colonies. Proprietors, whose aims are to build great states, to win wealth and renown, hire their colonists, send them out and

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[1] *Acts and Resolves of Province of Massachusetts Bay*, Vol. I, p. 62.

[2] *The Early History of the Protestant Episcopal Church in Maine*, Maine Historical Collections, Vol. VI, p. 176.

await the returns. It is interesting to read what was contemplated in the charter granted to Gorges in 1639. The Lord Proprietor was to be sovereign, authorized in concurrence with the free-holders to make all laws. He was to appoint all officers, executive, military and ministerial. He could divide his province into cities, counties, towns, parishes and hundreds, and appropriate lands for public uses. "His proprietorship," says Williamson, "was little less than an absolute sovereignty; he being merely subordinate to the Crown and to the Lords Commissioners of Foreign Plantation, as a subject of the realm."[1] It was incumbent upon him, however, to adopt the articles of faith, and forms of ecclesiastical government of the Church of England, and to dedicate all churches in accordance with its ritual. How different has been the history of Maine from what it was designed to be!

The Pilgrims came to Plymouth that they might worship God in the simple ways of the early church. The Puritans had left England to escape conformity. Religion was the prevailing motive in the settlement of Massachusetts. The early settlers of Maine had in view the fisheries, the fur trade and other means of profit. They found no fault with the Church of England. They were pleased to have its ministers among them, and hoped to establish that church upon this continent. As Massachusetts was Congregational so Maine was Episcopal. So unlike itself was the colony or colonies with which Massachusetts came into contact in the first half century of its history. The southern colony was the stronger in character and in numbers. It absorbed its northern neighbor and from 1692, at least, if not from an earlier time, the dominating element in the history of Maine is Puritan. The Church of England may have occupied the territory first, it may have claimed privileges under the Gorges charter, but in spite of all, the Puritans entered the field and Old England

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[1] Williamson, *History of Maine*, Vol. I, p. 275.

Episcopacy was compelled to yield to New England Congregationalism.

Numerous attempts had been made in Maine to establish a strong government but all of them had failed. There were at one time four distinct governments, but not one of them strong enough to maintain its existence. Massachusetts had been watching with a jealous eye these establishments, and she put forth her claims to jurisdiction over part of the Maine territory as soon as an opportunity was offered. In 1651 she had her charter examined and it was so interpreted as to put the land that she wanted under her dominion. Jurisdiction over the whole territory now called Maine, was not demanded at once. Claim was first laid to the western section, that bordering on New Hampshire. The General Court at Boston took up the matter and commissioners were appointed to acquaint the Maine people with the grounds and reasons of their claim. There was some opposition to it, but after negotiations, terms of submission were agreed upon. These are interesting as showing on what conditions Puritan Massachusetts was willing to incorporate Episcopal Maine. The towns of Kittery and Agmenticus were the first to submit. The territory was organized as the County of Yorkshire. The towns were to have a standing like that of Massachusetts towns, with representation in the General Court. The inhabitants took the oath of freemen; they were entitled to vote and also became eligible to any office in the government. The Agmenticus and Kittery citizens were thus specially favored; for they enjoyed privileges granted only to church members in Massachusetts. The towns of Wells, Saco and Cape Porpoise submitted to Massachusetts in 1652 and were received on conditions similar to those of Agmenticus and Kittery. The General Court, however, required each town to provide means for supporting a pious minister; for a short time after this portion of Maine had been organized as the County of Yorkshire, the General Court passed the law of 1654.[1]

[1] *Records of Massachusetts*, Vol. III, p. 354.

Massachusetts had begun to assert her jurisdiction over Maine, and other towns gradually submitted. In 1657–8 Scarborough and Falmouth were admitted and became a part of Yorkshire. In 1664 Massachusetts was ordered to give up Maine in favor of the Gorges heirs. Following this, came the royal commissioners who erected Maine into a government of its own. In 1668 Massachusetts resumed the government of her Maine territory and a few years later extended her jurisdiction to Penobscot Bay. In 1674 the General Court ordered the organization of the County of Devonshire. In 1677 Massachusetts extended her control of Maine by the purchase from the Gorges heirs of the Province of Maine. She assumed the Gorges Charter of 1639, and aimed to organize a government over the Province in accordance with the provisions of the Charter. Thomas Danforth was appointed president. He was assisted by a Provincial Council of eight members. The religion of the Church of England was contemplated by the Charter, and this Massachusetts was bound to adopt in the province. Williamson says that the Charter of Gorges was "neither silent nor definite upon the subject of religion, in its letter only, paying special deference to the Episcopal Communion; however, the Province Rulers were actuated by the orthodox principle prevalent in Massachusetts." In proof of this Mr. Williamson cites an instance of persecution of Baptists. All who had attended the Baptist meeting were summoned before the Council and "threatened with a fine of five shillings if they presumed again to offend in this way." Their leader, a Mr. Screven, was fined ten pounds for his past offense, and ordered to cease holding religious exercises especially on the Sabbath. He refused to submit to this order; the court therefore passed sentence upon him; "that he in future forbear from his turbulent and contentious practices; give bond for good behavior; and stand committed till the judgement of court be complied with."[1]

[1] Williamson, Vol. I, p. 570.

Maine did not long continue to be governed in this way by Massachusetts. In 1684 the Massachusetts Charter was declared forfeited, which separated the two colonies. During the period of revolution in England the Government of Maine was weak and disordered. In 1691 Massachusetts attempted to resume its old government, and Mr. Danforth was again elected President of Maine. A few months later the Charter of William and Mary was granted, and Maine became an integral part of Massachusetts and continued so for nearly one hundred and thirty years. In accordance with this Charter the province of Maine was entitled to three members in the Council or upper house, and Sagadahoc to one. For the lower house, representatives were elected by the corporate towns. In the first assembly there were eight representatives from Maine.

Maine, as a part of Massachusetts, was governed by its Puritan laws until 1820. The Congregational church was established and its ministers chosen by the church in concurrence with the voters of the town. Not unfrequently ministers of other denominations, particularly Presbyterians, were chosen. But Congregationalism had spread through New England and the members of that church soon controlled the majority of votes and, in consequence, when ministers were to be chosen, they were selected from the Congregationalists.

The motives that prevailed in the colonization of New Hampshire were economical rather than religious. Piscataqua was settled under the auspices of a company of Plymouth merchants; Dover by London merchants, Exeter by the heretic Wheelwright and his associates; Hampton by the Puritans, as an assertion of their claims to land in the Mason grant. The three former continued as independent governments for several years; but, at length, feeling the inconveniences of weak governments, sought the protection of Massachusetts; Dover and Piscataqua in 1641, Exeter in 1643. They were then governed by the laws of Massachusetts and, when they were incorporated, the inhabitants received

citizenship without regard to their connection with any church. During the remainder of the seventeenth century few settlements were made in New Hampshire, owing largely to the numerous conflicting claims to the land. No title was secure.

It was not until the second quarter of the eighteenth century that the colonization of New Hampshire can be said to have begun. The Mason claims were purchased by a company who promised not to insist strenuously upon the old claims. Towns were now laid out and, as in Massachusetts, provision was at once made for the support of the gospel. It was required of the grantees of Andover "that a meeting-house should be built within eight years after the grant and preaching of the gospel constantly maintained."[1] Provision for religion was commonly made in New Hampshire towns. Many towns were without ministers for years at a time, but the fault was the scarcity of ministers and not that the state had made no provision for their support. Massachusetts laws governed in this as they did in other matters in New Hampshire.

New Hampshire cannot be said to have had any laws of her own before 1691. Doubtless the law of England was taken as the law for the government of the colonists during the early period. From 1641 to 1680 the law of Massachusetts governed the people. In 1679 New Hampshire was made a separate province by a proclamation from the Crown, and in the following year the first New Hampshire legislature was organized. The laws made by this legislature, however, were never enforced because they failed to receive the royal approbation; nor were they ever printed. Two years later other laws were enacted but these met with the same fate. In an article on New Hampshire Laws preserved in the New Hampshire Historical Collections a writer says: "The loss of these statutes is hardly to be regretted. Where they were copied from Massachusetts we have the original and where they differed, they

[1] *New Hampshire Historical Collections*, Vol. I, p. 17. (Farmer and Moore.)

were a dead letter."[1] During the sway of Cranfield, Andros and the royal governors, religious liberty was pretended and the religion of the Church of England encouraged. In 1690 an assembly was called at Portsmouth and voted to re-annex New Hampshire to Massachusetts. This union was of short duration; it was dissolved by the charter of 1691 and New Hampshire again became an independent province. In 1719 a compilation of the laws was published. Another edition was published in 1726. From a reprint of this edition is quoted the following laws concerning the church, passed in 1714: "Be it enacted by His Excellency, the Governor, Council and Representatives convened in General Assembly, and by the authority of the same, That it shall be lawful for the freeholders of every respective town within this Province convened in public town meeting, as often as they shall see occasion to make choice of, and by themselves, or any other person or persons by them appointed, to agree with a Minister or Ministers for the supply of such town, and what annual salary shall be allowed to him or them; and the Minister or Ministers so made choice of and agreed with shall be accounted the settled Minister or Ministers of such town; and the Selectmen, for the time being, shall make rates assessments upon the inhabitants of the town for the payment of the Minister's salary, as aforesaid, in such manner and form as they do for defraying of other town charges, which rates by warrant from a Justice of the Peace, with the selectmen, or major part of them, directed to the constable or constables of the town, shall be by him or them collected and paid according to the direction of the Selectmen, for the end aforesaid:

"*Provided always*, That this Act do not at all interfere with Her Majesty's grace and favor in allowing her subjects liberty of conscience; nor shall any person under pretence of being of a different persuasion be excused from paying towards the support of the settled minister or ministers of such town afore-

[1] Farmer and Moore's *Collections*, Vol. III, p. 203.

said; but only such as are conscientiously so and constantly attend the public worship of God on the Lord's Day according to their own persuasion, and they only shall be excused from paying towards the support of the ministry of the town." This law remained unchanged in the edition of the laws published in 1761. It shows clearly the standing of the church with reference to the state.

The Puritans and Pilgrims had not been long established in Massachusetts before they were attracted by the beauty and fertility of the Connecticut Valley. As early as 1633 the enterprising colonists of Plymouth had established a trading-house at Windsor. Two years later the younger Winthrop came with a commission from the proprietors of the Connecticut territory and established a fort at the mouth of the Connecticut, which he called Saybrook. The more important settlements, however, were those begun in 1635 at Windsor, Hartford and Wethersfield under the inspiration of Hooker, Stone and Haynes. The main body of these settlers came from Roxbury, Watertown, Dorchester and Cambridge, in Massachusetts, and reached Connecticut in the Spring of 1636. The general affairs of the new colony were guided for the first year by Commissioners appointed by the General Court of Massachusetts. At the expiration of that time, the colonists organized the General Court of Connecticut and in 1639 adopted a constitution. An oath of allegiance to the state was the only qualification of citizenship. Various religious opinions were tolerated.

About the same time another Puritan colony established itself in Connecticut, at New Haven. It was under the guidance of John Davenport and Theodore Eaton. In April 1638 they organized temporarily under the "plantation covenant." In 1639, when they were ready to organize their government, Mr. Davenport preached a sermon from the text "Wisdom hath builded her house, she hath hewn out her seven pillars," showing the propriety of appointing a government of seven men. The church was first organized. Twelve electors were

chosen to appoint the "seven men who, as pillars, were to begin the new church." The seven then associated with themselves in church membership nine others, and these sixteen constituted the freemen of the little independent state. They resolved "that the Word of God should be the only rule to be attended unto in ordering the affairs of government."[1] The church members formed their civil government and elected its officers. Seven were chosen, a governor, four deputies, a secretary, and a sheriff. "New Haven," says Bancroft, "made the Bible its statute-book and the elect its freemen. As neighboring towns were planted each constituted itself a house of wisdom, resting on its seven pillars, and aspiring to be illumined by the eternal light."[2] However, as the plantation grew larger and new settlements were made, the system of government changed and assumed a form like that of the Connecticut or Massachusetts Bay colony.

The little military station at Saybrook was in 1644 sold to Connecticut. New Haven and Connecticut continued independent of each other until 1662 when they were united by a royal charter.

It is easy to anticipate what would be the policy of Puritan Connecticut with reference to the church. The one colony, Connecticut, had come out of Massachusetts and it aimed to follow the mother colony in its principal features. The other, New Haven, made church and state identical, resolving in all things to be governed by the Word of God.

In 1644 the Commissioners of the United Colonies recommended that each man "be voluntarily set down what he is willing to allow" for the support of the Gospel; and if any refuse to pay a meet proportion, he should be compelled to pay. The Connecticut colony voted that the recommendation shall "stand as an order for this jurisdiction, to be executed

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[1] Quoted in Palfrey's *History of New England*, Vol. I, p. 228.
[2] Bancroft, Vol. I, p. 272.

accordingly where there shall be cause."[1] This remained the law long after the union of the Connecticut colonies. The Charter of 1662 was silent as to religious rights or privileges.

In 1669 the Congregational church was formally approved. The public records of this year say: This Court having seriously considered the great divisions that rise amongst us about matters of church government, do declare that whereas the Congregational churches in these parts for the general of the profession and practice have hitherto been approved, we can do no less than still approve and countenance the same to be without disturbance until better light in an orderly way doth appear.

To the inquiries of the Committee for Trade and Plantations the Colony in 1680, among other things, replied:

"Our people in this Colony are, some strict Congregational men, others more large Congregational men, and some moderate Presbyterians; and take the Congregational men of both sorts, they are the greatest part of people in the Colony.

"There are four or five Seven-day men in our Colony, and about so many more Quakers.

"Great care is taken for the instruction of the people in the Christian religion, by ministers' catechizing of them," etc., "and by masters of families instructing and catechizing their children and servants, being so required to do by law."

"In our Corporation are twenty-six towns, and there are one and twenty churches in them.

"There is in every town in our Colony a settled minister, except it be in two towns new begun, and they are seeking out for ministers to settle amongst them.

"For the maintenance of the ministers, it is raised upon the people by way of rate, and it is in some places £100, etc."[2]

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[1] *Colonial Records of Connecticut*, Vol. I, pp. 111–112.
[2] *Records*, Vol. III, pp. 299–300, 1678–1689.

In 1717 an act "of the better ordering and regulating parishes or societies, and for their supporting the ministry and schools," *provided* for the election of the town minister by a majority of the voters and empowered the town to levy taxes for his support.[1]

When we consider the history of Rhode Island we cannot fail to notice to what extent it reflects the early history of the rest of New England, particularly of Massachusetts. Dissatisfaction with the Church of England, Non-conformity planted Massachusetts. Dissatisfaction with the Church of Massachusetts and, we may add, Non-conformity planted Rhode Island.

In 1631 Roger Williams landed in Massachusetts. His ideas and theories of church and state were not at all in accord with those of the Puritans. He insisted upon absolute separation of the civil and ecclesiastical organizations. With the Puritan the two were most intimately associated. There were other differences of opinion between him and the colonists. He considered it a sin worthy of repentance ever to have been in communion with the Church of England. He disputed the right of the King to give a patent of American territory before it had been purchased from the natives. A conflict with the Massachusetts government was inevitable.

Williams served as pastor of the Salem church for a short time in spite of the remonstrances of the General Court. In October, 1635, he was called upon to answer for his teachings. The outcome of the trial was his banishment from the colony. The Court considering the season of the year, allowed him to remain for six months. This time he employed in gathering a congregation, although the Court had especially forbidden his doing any work of this kind. He was ordered, in consequence, to be seized and sent to England. Williams, however, escaped and joined by others of like mind, in the summer of 1636, organized the plantation of Providence. Other plantations were formed in the Rhode Island territory about

[1] *Records*, Vol. IV, p. 33, 1717–1735.

this time. It is not necessary to give in detail a description of their founding. The ideas of Williams became predominant, particularly his idea of the relation of church and state. The need of mutual protection soon brought about a union of the Rhode Island towns. Then their desire to have a more perfect title to lands that they had purchased from the Indians, led the towns to apply for a charter. In 1644 a charter was obtained and the Colony became "the Incorporation of Providence Plantation in Naragansett Bay in New England." After the Restoration a second charter was obtained which made the Rhode Island Colonies a "Body Corporate and Politic in fact and name, by the name of the Governor and Company of the English Colonies of Rhode Island and Providence Plantation in New England in America." What is most interesting in this charter is its provision for religious liberty. In their petition for the charter the colonists had said "it is much on their hearts (if they be permitted) to hold forth a lively experiment, that a most flourishing civil State may stand, and best be maintained, and that among our English subjects, with a full liberty in religious concernments, and that true piety, rightly grounded upon Gospel principles, will give the best and greatest security to sovereignty, and will lay in the hearts of men the strongest obligation to true loyalty." In response to this the charter that was granted said: "that we, willing to encourage the hopeful undertaking of our said loyal and loving subjects, and to secure them in the free exercise and enjoyment of all their civil and religious rights appertaining to them as our loving subjects, and to preserve unto them that liberty in the true Christian faith and worship of God which they have sought with so much travel, and with peaceable minds and loyal subjections to our royal progenitors, and ourselves to enjoy; and because some of the people and inhabitants of the same colony cannot, in their private opinions, conform to the public exercise of religion, according to the liturgy, form and ceremonies of the Church of England, or take or subscribe the oaths and articles made and established

in that behalf; and for that the same, by reason of the remote distances of these places, will, as we hope, be no breach of the unity and uniformity established in this Nation, have therefore thought fit, and do hereby publish, grant, ordain, and declare, that our royal will and pleasure is, that no person within the said colony at any time hereafter, shall be molested, punished, disquieted or called in question, for any differences in opinion in matters of religion, and do not actually disturb the peace of our said colony; but that all and every person and persons may, from time to time, and at all times hereafter, freely and lawfully have and enjoy, his and their own judgments and consciences, in matters of religious concernments, throughout the tract of land here before mentioned, they behaving themselves peaceably and quietly, and not using this liberty to licentiousness and profaneness, nor to the civil injury or outward disturbance of others, any law, statute or clause therein contained or to be contained, usage or custom of this realm, to the contrary hereof, in any wise notwithstanding."

Hough, in his American Constitutions, commenting on this feature of the charter, says: "This broad and liberal grant of liberty of opinion in matters of religious faith is among the earliest examples of that toleration which now prevails in every State in the American Union; but at the time when it was asked and obtained, it formed a striking and honorable contrast with the custom and laws of the neighboring colonies."[1] With the exception of a few years, during the period of royal governors for New England, this charter remained the fundamental law of Rhode Island until the present century.

Vermont was the last of the New England states to be colonized. Little was known of this territory in the first half of the eighteenth century. Grants of land had been made by both Massachusetts and New Hampshire, and Fort Dummer had been built by the Massachusetts government. A few

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[1] Vol. II, p. 246.

other settlements had been made, but it was not until the French and Indian War that the people became acquainted with its excellent climate and fertile soil. Before the war New Hampshire had chartered sixteen townships west of the Connecticut, but there were few inhabitants there, amounting in 1760 to not more than three hundred. Three years after the war, New Hampshire had chartered one hundred and twenty-eight townships in the Vermont territory. New York also claimed jurisdiction over it, and during the fifteen years following the French and Indian wars, had made grants for nearly two and a half million acres of its land. New York and all New England had contributed colonists for this territory.

The question of jurisdiction was decided by the Crown in 1764. New Hampshire was restricted to the territory east of the Connecticut. The Vermont region was placed under the jurisdiction of New York. The latter colony now declared the New Hampshire grants illegal and tried to compel the grantees to repurchase their lands. The Vermont settlers refused to do this and a controversy with New York lasting several years began. In the war of the Revolution, Vermont joined with the other colonies but she fought at the same time for her own independence of New York. On the 17th of January, 1777, she declared her independence and in the same year drafted a constitution for her government. Efforts were made at this time by the British to win the new republic to their side but without success. After repeated efforts to be be admitted into the union of the United States, she finally succeeded, but not until 1791.

In ecclesiastical matters the Vermont towns, especially those chartered by New Hampshire, were governed as other New England towns. A more liberal policy was prevailing when these townships were organized. Religious liberty had made decided progress. Where the New York jurisdiction could be maintained, the Church of England was specially encouraged. But in the great majority of towns the voters estab-

lished the church, the Congregational, to which they had been accustomed before coming to Vermont. DePuy in his Ethan Allen and the Green Mountain Heroes of 1776 tells how the church was established in Bennington. He tells us that in 1761 Bennington was settled. A church was constructed and paid for, "partly by individual contributions and partly by a tax on the proprietors of the towns.

"The Cambridge Platform was adopted except such parts as admitted, according to the New England fashion of that day, the aid of the civil magistrates in enforcing the support of the ministry, and their coercive power over the church in other matters. They called themselves Congregationalists, others called them Separatists."[1]

The relation of church and state becomes clearer after the adoption of the Constitution of 1777. The following is Article III of the Declaration of Rights in this constitution:

"That all men have a natural and unalienable right to worship Almighty God, according to the dictates of their own consciences and understanding, regulated by the word of God; and that no man ought, or of right, can be compelled to attend any religious worship, or erect or support any place of worship, or maintain any minister, contrary to the dictates of his conscience; nor can any man who professes the Protestant religion be justly deprived or abridged of any civil right as a citizen, on account of his religious sentiment, or peculiar mode of religious worship, and that no authority can, or ought to be vested in, or assumed by, any power whatsoever, that shall in any case, interfere with, or in any manner control, the rights of conscience, in the free exercise of religious worship; nevertheless, every sect or denomination of people ought to observe the Sabbath, or the Lord's day, and keep up and support, some sort of religious worship, which to them shall seem most agreeable to the revealed will of God."[2]

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[1] De Puy, pp. 140, 141.

[2] *Records of the Council of Safety and Governor and Council of the State of Vermont*, Vol. I, p. 98.

No provision was made for the public maintenance of a church until six years after the constitution was adopted. In 1783 a law was made to enable towns and parishes to erect proper houses for public worship, and support ministers of the Gospel. Many of the towns availed themselves of this privilege, and thus Vermont followed in the footsteps of her sister states in New England.

CHAPTER III.

The Development of Religious Liberty in the Seventeenth Century to 1691.

A study of the history of the great Reformation reveals many triumphs for the cause of liberty, civil and religious. There were to be many conflicts, many a martyr had to sacrifice his all before civilization was enriched with the element of individual liberty. In the midst of these conflicts America was colonized, and for American soil was reserved the scene of the struggle that was to end in the culminating triumph, the complete separation of church and state.

Early in the history of Puritan New England forces manifest themselves whose tendency is to bring about a more perfect religious liberty. Those whose importance becomes considerable in the seventeenth century down to the year 1691, will be treated in this chapter.

During the first thirty years of her history, the chief colony, Massachusetts, had been conducting her affairs in a manner that was sure to raise up enemies against her. The expulsion of the Browns for their adherence to the ritual of the Church of England, the banishment of Roger Williams, justified as it may have been by political expediency, the banishment of the Antinomians, Wheelwright and Mrs. Hutchinson, the driving out of those who denied infant baptism, the harsh treatment of the Quakers, the restriction of the franchise excluding even members of the Church of England, the aggressive measures adopted to extend her jurisdiction over Maine and New Hampshire, all these were acts for whose consequences the

Puritan colony was to be held responsible. The Restoration in the mother country brought a general complaint against Massachusetts. The colonists were not slow to see their danger. They had agents at work to justify their actions, to resist all encroachment on what they called their liberties, and to counteract the influence of the complainants. The colony was to a good extent successful in her defence against attack. It is not easy to say to what extent the administration of Massachusetts was modified by the orders of the King. But it is certain that by the complaints of the Quakers, the King was induced to send a letter to Governor Endicott, ordering that further proceedings against the Quakers should be suspended, and that those who were languishing in prison should be sent to England. Shattock, a Quaker who had been scourged and banished from the colony, was charged with bringing the letter to Massachusetts. The order of the King was promptly obeyed, and all Quakers were released from prison. Less than a year before this Massachusetts was condemning Quakers to death; now she released them from prison. The reason for this change is not found altogether in the letter of the King but in the change in the sentiments of the colonists. The Puritans were not the hard-hearted, unrelenting persecutors that they are often represented to be. It is to be remembered that the political life of Massachusetts for the first thirty years was very precarious. Toleration of men of the Roger Williams or Wheelwright types, or of the Quakers, meant internal dissension and disunion, with all their consequences. For self preservation a State may adopt unusual measures. We do not know just how far political expediency entered into the banishment of dissenters. But from the time when Massachusetts was compelled to adopt a severe policy, there was a party of opposition, a party in favor of liberality and charity.

In 1661 Christison who had been banished and threatened with death on his return, did return, was condemned to die, but the sentence was not carried out. The opposition to

extreme measures was too great. The law for capital punishment was not at once repealed but it became inoperative from this time. Not until later in the same year was the King's letter received. "The royal edict," says Doyle, "did but accelerate and give effect to the feeling of an influential party in the colony. A true instinct taught Endicott that the day had passed away for him and for those who thought with him. The power of the priesthood was broken. Public opinion was being transformed, as it was transformed in the mother country. Earnest orthodoxy was slowly learning true tolerance; conventional orthodoxy was lapsing into indifference."[1] It is true that toleration of the Quakers was not yet to be. The King wrote a second letter in which he said that it was found necessary in England to make a sharp law against them, and that there is no objection to the colonists' doing likewise. Massachusetts, however, did not do likewise. The year 1661 saw more liberal principles prevailing in her administration. A more enlightened sentiment was abroad in the colony. It began to develop in the first decade of Massachusetts' history, in the time of the Roger Williams and Antinomian controversies. The punishment of Baptists made the opposition stronger. The party in power made severe laws against this sect but it was difficult to enforce them unsupported, as they were, by many of the people. With the execution of the Quakers came a reaction that placed in power the opposition party, the party of liberality, of justice and humanity. Massachusetts had taken the first step towards religious freedom. The colony, too, had grown stronger; the speeches and actions of one man could no longer put in jeopardy the very life of the little state. A a more liberal policy was now possible.

The punishment of dissenters did not enter so prominently as a factor in the development of religious liberty in the other colonies as in Massachusetts. A liberal policy always prevailed at Plymouth. As early as 1645 there was a majority

[1] Doyle's *Puritan Colonies*, Vol. II, p. 114.

in favor of "full and free toleration to all men that would preserve the civil peace and submit unto the government." The law against Quakers, passed in 1655, distinctly prohibited any punishment causing injury to life or limb. As to Baptists, their own historian, Backus, says: "They (Baptists) were in Plymouth colony, where they had ever enjoyed much more liberty than any had in Massachusetts." [1] The Plymouth colonists had learned toleration before they came to America.

In Connecticut the influence of Winthrop was directed in opposition to persecution. Laws were made against Quakers; they were imprisoned until they could be sent out of the colony. A toleration law was passed as early as 1669. In this year the General Court declared "that all such persons being also approved according to law, as orthodox and sound in the fundamentals of Christian religion may have allowance of their persuasion and profession in church ways or assemblies without disturbance." [2] This law on its surface seems fair and liberal; but it was doubtless rigidly enforced until, at least, the close of the century.

While we are considering the influence of a rigid policy towards dissenters in the development of religious liberty, we cannot pass over Rhode Island's history. Religious liberty prevailed there from its foundation. We have in this colony the first fruits of persecution. The colony was planted by exiles for the cause of religion, and this fact largely explains its liberal spirit.

The political life of Massachusetts or of any of the colonies cannot be separated from that of the mother country. The Restoration, as we have seen, was not without its influence in America. In 1661 the General Court of Connecticut agreed to send a congratulatory letter to the King "thereby declaring and professing themselves, all the inhabitants of the Colony,

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[1] *Church History of New England*, p. 94. [2] *Records*, Vol. II, p. 109.

to be His Highness's lawful and faithful subjects."[1] At the same time they sought from the Crown a continuance and confirmation of the privileges necessary to the welfare of the colony. Later in the same year, Winthrop sailed for England for the special purpose of obtaining a charter. He was successful, and in the following year the charter was granted. It has an important bearing on the progress of religious liberty because it incorporated the New Haven colonies or towns with Connecticut. The union was not at all agreeable to New Haven, but after negotiations lasting about two years she submitted. It will be remembered that the New Haven towns based their government on the Bible. Only church members in good standing enjoyed the franchise. All this was done away with and it was a step in the direction of entire religious liberty in New England. New Haven was reluctant to abandon the religious test for citizenship. Connecticut, however, had just won the favor of the Crown, and she knew she would risk losing it, if she did not insist upon a more liberal franchise. A compromise was agreed upon; instead of church membership, a certificate from the deacons and selectmen that the man was of a "religious carriage and competent estate" was all that was required.

The colonists of Rhode Island were the first to recognize the Restoration, and declared a general holiday to celebrate it a whole month before any of the other colonies formally acknowledged it. In 1663 they petitioned the King for a charter. In their petition they gave their ideas of religious toleration, as was pointed out in the previous chapter. The charter that they received permitted them to organize a state in which all denominations should be on an equality. Not one was to be specially favored by the State. The gain for Rhode Island at this time was, therefore, that religious liberty was placed upon a constitutional basis.

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[1] Quoted in Palfrey's *History of New England*, Vol. II, p. 39.

Attention has before been called to the fact that at the Restoration there was a general complaint made against Massachusetts. No appeal to the Crown met with greater sympathy than that of the large number of disfranchised inhabitants. Massachusetts began with a very narrow policy. Only church members, as we have seen, were permitted to vote. It is not necessary here to consider the purpose of such a law. It shows the close union of church and state and its repeal aided in bringing about the final dissolution of that union. Ten years after the law was enacted the colony found it a source of embarrassment. In 1641–3 when her jurisdiction was extended over the New Hampshire towns, for the satisfaction of the inhabitants there she was compelled, as was pointed out in a previous chapter, to abandon the religious qualification for citizenship. The property qualification only was insisted upon. The inhabitants of Maine were admitted as citizens on the same terms. The church membership qualification was evidently too narrow for the aggressive policy of Massachusetts in the extension of her territory. That it was not enforced in Maine and New Hampshire, and that their inhabitants enjoyed privileges refused to many men of Massachusetts, doubtless had an influence in repealing the law altogether. Uniformity in the franchise could fairly be asked for. That it was asked for may gathered from the subsequent history of the colony.

About the time the New Hampshire towns were incorporated the General Court formally considered the question of conferring some of the privileges of citizenship upon those who were not church members. No action, however, was taken upon the question. Winthrop says that the matter was referred to the next Court, in order that, in the meantime, letters could "be written to other colonies to advise with them about it."[1] Two years later, in 1646, an organized effort was

[1] *History of New England*, Vol. II, p. 160.

put forward by the disfranchised to obtain the freedom of the colony. They first drew up a petition to Parliament "pretending that they, being free-born subjects of England, were denied the liberty of subjects, both in Church and in Commonwealth, themselves and their children debarred from the seals of the covenant, except they would submit to such a way of entrance and church government, as their consciences could not admit, and take such a civil oath as would not stand with their oath of allegiance, or else they must be deprived of all power and interest in civil affairs, etc." "And now at this court at Boston," Winthrop continues, "a petition to the same effect, much enlarged, was delivered in to the deputies."[1] The petitioners threatened to send their appeal to parliament if their requests were not granted. This threat was of no avail; their requests were not granted but formal charges were brought against the petitioners and as a result, they were compelled to pay heavy fines. There is little doubt, however, that the agitation by those excluded from civil rights continued; for a few years later the subject of Baptism brought up the question in another form. The disfranchised now formed a political faction, whose growing strength and power the Massachusetts colony was bound to respect sooner or later.

After the incorporation of the Maine and New Hampshire inhabitants as citizens, whether church members or not, came the adoption of the Half-way covenant to extend the franchise beyond its narrow limits. The question involved was largely an ecclesiastical one but it had political features of importance. It was a question of baptism. The early Puritans were members of the church and brought their children to baptism. By the year 1660 many of the children had become adults and were themselves heads of families. Some of these were not members of the church, as for church membership was required evidence of regeneration. There now arose the question whether they could bring their children to baptism.

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[1] *History of New England*, Vol. II, p. 261.

But this question had to be answered negatively, as that was a privilege accorded only to church members in full standing. There was a large party in favor of regarding all who had been baptized in infancy, as members of the church. For five years the question was discussed. It assumed greater importance because in Massachusetts church membership was a condition for citizenship. By the political feature of the question its solution was largely determined, and how far it entered into the politics will be seen from its influence upon a subsequent election. At a synod of the clergy in 1657, the opinion prevailed that baptism in infancy brought with it church membership. This was called a *Half-way* covenant as those who came into the church by virtue of their baptism were not to be received in full connection. The decision of the clergy was approved by the General Court of Massachusetts in 1662, which decided the question of citizenship for this colony. The General Court of Connecticut sanctioned the same view two years later but its political significance was unimportant here, as by the union of the New Haven and Connecticut colonies the religious qualification for citizenship was abolished.

The extension of the franchise was a reform loudly called for. In so far as this was accomplished by the Half-way covenant its results were beneficial. To a considerable extent, therefore, the question of baptism became a political one. Not all the churches were willing to adopt the covenant. The church at Boston was divided. A majority held to the more liberal view. At the death of the pastor of the church, the minority won over enough votes to call the Rev. Mr. Davenport of New Haven to the pastorate. He was an out and out opposer of the covenant. The majority now seceded, asked for a dismissal and permission to organize a separate church. Their requests were not granted. A synod of clergymen advised them to go ahead with their plans. The Governor, a sympathizer with Davenport, exerted a strong influence in his behalf. At the subsequent meeting of the General Court, a committee was appointed by the deputies to inquire into the

causes of God's displeasure with the colony. In its report the committee censured the seceders of the Boston church. The question became an issue at the next election. Only twenty of the fifty deputies were re-elected to the new House. The Court at its first meeting took up the Boston church question, reversed the decision of the previous house, and declared "that they know no just cause of those scandalizing reflections against the magistrates, elders and churches, either in reference to the new church of Boston or otherwise."[1] "The victory," says Mr. Doyle,[2] "of the seceders, for so we may call it, is a turning point in the ecclesiastical, and therefore in the political, history of New England. It was none the less a gain to the cause of freedom, because, like most such victories, it was won by men who were consciously fighting only for their own privileges."

The restricted franchise was attacked by the excluded at home, and, after the Restoration the King insisted upon reforming this feature of the colony's policy. In 1662 the advisers of Charles II. wrote to the colonists that it was desired "that all *freeholders of competent estates*, not vicious in conversation and orthodox in religion (though of different persuasion in church government) may have their votes in the election of all officers, civil and military." Massachusetts was not yet ready to yield. In 1664 the Commissioners for New England were appointed and one of their chief duties was to remove the restriction from the franchise and secure greater freedom in matters of religion. Doyle declares that "from every point of view the Commission was a hopeless failure."[3] It certainly failed in its effort to bring about the repeal of the law making church membership a condition of citizenship. At the first General Court after the arrival of the Commissioners a substitute law was passed, but so exacting were its conditions that

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[1] *Massachusetts Records*, Vol. IV, Part II, p. 493.
[2] *Puritan Colonies*, Vol. II, p. 194.
[3] Doyle, *Puritan Colonies*, Vol. II, p. 142.

the change from the old to the new law amounted to little or nothing. The records of the time say: "In answer to that part of His Majesty's letter of June 28, 1662, concerning admission of freemen, this Court doth declare, that the law prohibiting all persons except members of churches, and that also for allowance of them in any county courts, are hereby repealed; and do hereby also order and enact that from henceforth all Englishmen presenting a certificate under the hands of the ministers or minister of the place where they dwell, that they are orthodox in religion and not vicious in their lives, and also a certificate under the hands of the selectmen of the place, or of the major part of them, that they are freeholders and are for their own proper estates (without heads of persons) rateable to the country in a single country rate, after the usual manner of valuation, in the place where they live, to the full value of ten shillings, or that they are in full communion with some church amongst us, it shall be the liberty of all and every such person or persons, being twenty-four years of age, householders and settled inhabitants in this jurisdiction, from time to time, to present themselves and their desires to this Court for their admittance to the freedom of the Commonwealth, and shall be allowed the privilege to have such their desire propounded and put to vote in the General Court for acceptance to the freedom of the body politic by the suffrage of the major part, according to the rules of our patent."[1]

A certificate from the minister that the candidate for citizenship was orthodox in religion and not vicious in life, and a certificate from the selectmen that he was otherwise qualified, had to be presented to the General Court. His application was then considered and his admission decided by a vote of the Court. The law was doubtless rigidly enforced; for King Charles, in his subsequent letters to Massachusetts, assumes that no change whatever had been made in the law.

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[1] *Records*, Vol. IV, Part II, pp. 117–118.

The commissioners were appointed to secure liberty in religion in Massachusetts. In this they also failed; for, after their departure, affairs continued in their usual course several years longer. There is, of course, not the severity that characterized Massachusetts' early history; but the opposition to dissenters is still strongly felt. In 1668 a congregation of Baptists established themselves on Noddle Island, in Boston harbor. The magistrates tried to get rid of them, first by winning them over in public discussion. In this they were not successful. Three of the Baptists were then sentenced to banishment, and threatened with imprisonment should they return. The authorities, however, were advised not to enforce the sentence. The sentiment of the colony would not support it. The dissenters were not banished; they gathered their church on the Island, and were not molested. Five years later one of their number wrote: "The church of the baptized do peaceably enjoy their liberty."[1] Even in Plymouth colony there remained some opposition to dissenters. As early as 1663 the Baptists in Rohoboth "solemnly covenanted together as a Church of Christ."[2] Complaint was made against them because there was a Congregational church there; in consequence a small fine was imposed upon them. Four years later, however, the town of Swansea was granted to them by the Court itself. A Baptist church was organized, and it flourished there for many years.

In 1665 the Commissioners in their report said of Connecticut that it would not "hinder any from enjoying the Sacraments and using the Common Prayer Book, provided they hinder not the maintenance of the public minister."[3] This tolerant spirit in the colony developed sufficiently by 1669 to enact the Toleration law, already quoted. Dissenters, however, had to be "approved, according to law, as orthodox and sound in the fundamentals of Christian religion," in order to

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[1] Quoted in Palfrey, Vol. II, p. 104. [2] Backus, p. 94.
[3] See Beardsley's *History of Church in Connecticut*, Vol. I, p. 16.

have "allowance of their persuasion and profession in church ways." Just how much liberty was enjoyed under this law it is difficult to say. "Orthodox and sound," according to Puritan ideas, did not apply to many. Dr. Beardsley, in his History of the Episcopal Church in Connecticut, says:[1] "For there was no letting up of the Puritan rigor, no relaxation of the rule that none should have liberty to worship God publicly except after the order of religion established by the civil government, until 1708."

The Royal Commissioners of 1664-5 had accomplished nothing. Ten years later the mother country again undertook to call the colonies, particularly Massachusetts, to account. In the dispute with the colony, which began in 1675, and resulted in vacating the charter in 1684, an important subject of contention was that bearing on religious liberty. While the Massachusetts agents, Stoughton and Bulkeley, were in England to bring about a reconciliation, the Baptists stealthily built a church in Boston. It was not known to be a church until the Baptists met for services. Later the General Court voted to take the house away from them if they continued to worship there. The Baptists lost no time to report the matter in England. When the colony's agents returned in 1679, they brought with them a letter in which the King said: "We shall henceforth expect that there shall be suitable obedience in respect of freedom and liberty of conscience, so as those that desire to serve God in the way of the Church of England, be not thereby made obnoxious or discountenanced from sharing in the government, much less that any other of our good subjects (not being Papists) who do not agree in the Congregational way, be by law subjected to fines or forfeitures, or other incapacities, for the same; which is a severity the more to be wondered at, whereas liberty of conscience was made one principal motive for your first transportation unto those parts."[2] In spite of this letter, by order of the Court,

[1] Vol. I, p. 16.

[2] Backus, p. 121.

the Baptist church doors were nailed and the congregation forbidden to meet there. The church was afterward opened in some way, and the Baptists again held services. They were summoned before the Court, where they argued that the church had been built before the law was enacted; and, further, that the letter of the King was in their favor. The Court forgave their past conduct, but forbade future meetings of Baptists in the church. Doubtless, the controversy with the King and his recent letter had considerable influence upon the Court in its mild treatment of these dissenters.

In the following year the General Court taking into consideration the King's objections to their laws voted to repeal the law "for punishing with death Quakers returned from banishment."[1] At the same time the law against heresy was amended. In 1682 the agents sent to England in response to the King's demands, were specially instructed to inform the King that there was now no law prohibiting any members of the Church of England from civil privileges, and that the laws against "violent and impetuous intrusions of the Quakers had been repealed;" Anabaptists were "subject to no other penal statutes than those of the Congregational way;"[2] the church membership qualification for citizenship, too, was abolished. All this shows that the religious exclusiveness of Massachusetts was a chief cause of complaint against her. In 1684 her charter was declared forfeited. Under the Royal governors until the Revolution, religious liberty made no progress in New England. The government was changed after the accession of William and Mary. Connecticut and Rhode Island resumed their governments under their old charters. Massachusetts received a new one and organized its government on the new basis in 1692. Plymouth and Maine were associated with Massachusetts. New Hampshire was made a royal province. The new charter for Massachusetts distinctly provided for liberty of conscience to all, except papists, as was

[1] Palfrey, Vol. II, p. 239.

[2] Palfrey, Vol. II, p. 242.

seen in the previous chapter. The year 1692 marks the beginning of a new era for Massachusetts. The colony, however, was yet far from religious freedom. All citizens were compelled to support the Congregational church; but progress had been made, and the day when dissenters should be exempted from taxes for the state church was not far distant.

We have noticed three forces tending to promote religious liberty in the seventeenth century. (1). Persecution of dissenters, in the early history of the colonies, met with opposition and developed a spirit of toleration, which made its influence felt in Rhode Island from the foundation, in Massachusetts from 1661, and in Connecticut, though not to any great extent here, from the year 1669. (2). The extension of the franchise, in Connecticut by the Charter of 1662, in Massachusetts by the incorporation of Maine and New Hampshire towns, and by the Half-way covenant, gave the privileges of citizenship to many not enthusiastic for, and perhaps, not at all in sympathy with, the church established by law. In consequence, a new element, in opposition to narrowness and in favor of liberality of policy, appears to foster a healthier public opinion. (3). The controversies of Massachusetts with the Crown forced that colony to amend or repeal laws restricting freedom in matters of religion.

CHAPTER IV.

Development of Religious Liberty in the Eighteenth Century to 1787.

The Charter of 1691 marks an epoch in the history of Massachusetts. The long struggle that arose because of the association of church membership with the franchise was ended. The religious test for citizenship did not endure until the coming in of the eighteenth century. A great change had come over New England. Church and state were far different from what they were in the time of Governor Bradford. In some respects there is a marked advance; in others, retrogression.

The population of New England in 1700 was about 106,000. Of these, 70,000 were under the jurisdiction of Massachusetts; Connecticut had 25,000; New Hampshire, 5,000, and Rhode Island 6,000.[1] They were nearly all descendants of the Puritan emigrants, whose prime motive of leaving their native land for America, was to enjoy freedom of worship. Religion was not the all-absorbing topic with the first generation of the eighteenth century, as it had been with their grandfathers. Religion was for a time in the background, while agriculture and commerce came into prominence. From an economic point of view New England was prospering. Large incomes were derived from the fisheries. Trade with the West Indies was brisk. Ship-building was carried on, on so large a scale, that English builders complained of American

[1] Thwaite's *Colonies*, p. 181.

competition. Domestic industries were occupied with lumber supplies, the manufacture of rum, linen, and woolen goods. This large industrial and commercial life was not without its influence upon politics. It tended to weaken the domination of religion in government; also, to develop broader and more enlightened ideas. As early as 1632 the prospect of commercial prosperity began to detract from the religious zeal of the colonists. In this year the Rev. John White, of Dorchester, complains of "profit being the chief aim and not the propagation of religion."[1] An incident illustrative of this point, is given in Mather's Magnalia. He says that at Marblehead a minister was exhorting the people to seek first the Kingdom of God, and all things would be added unto them. To this, one of the fishermen replied: "You think you are preaching to the people at the Bay. Our main end was to catch fish."[2]

Thus was New England changing; but the change was not unrecognized by the more pious Puritans of this period. In 1679 a synod of the clergy and laity was called to consider matters bearing upon the reformation of the churches. One of the principal questions debated and formally answered was: "What are the evils that have provoked the Lord to bring His judgments on New England?" The answer is given *in extenso* in Cotton Mather's Magnalia. It mentions among the causes of God's displeasure, a great and visible decay of the power of godliness amongst many professors, profanity by oaths and imprecation in ordinary discourse, Sabbath-breaking, decline in family worship, intemperance, want of truth amongst men, etc. The desire for economic prosperity and riches is given as one of the leading causes. On this point the synod's answer says: There hath been in many professors an insatiable desire after land and worldly accommodations; yea, so as to forsake churches and ordinances, and to live like

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[1] Quoted in Weeden's *Economic and Social History of New England*, Vol. I, p. 125.

[2] Weeden, Vol. I, p. 135.

heathen, only that so they might have elbow-room enough in the world. Farms and merchandisings have been preferred before the things of God. In this respect the interest of New England seemeth to be changed. We differ from other outgoings of our nation, in that it was not any worldly considerations that brought our fathers into this wilderness, but religion, even that so they might build a sanctuary unto the Lord's name; whereas, now religion is made subservient unto worldly interests.[1]

Commercial prosperity modified the politics of New England not only by withdrawing attention from religion, which had in the earlier period been their chief concern, but by educating the people to greater sympathy with their fellows. The old Puritan test, "orthodox and sound" with a Puritan construction upon it, was made to vanish by the culture of an extensive commercial life. This fact, too, was recognized by some of the Puritans, though, perhaps, not appreciated. Johnson, in his *Wonder-Working Providence*, after speaking boastingly of the flourishing trade of the colonists in 1650, laments its influence upon the minds of the people. He says that many of the business men "would willingly have the Commonwealth tolerate divers kinds of sinful opinions, to entice men to come and sit down with us, that their purses might be filled with coin, the civil Government with contention, and the Church of our Lord Christ with errors."[2] Such was the effect of economic prosperity in New England. It, doubtless, aided materially in bringing about a greater degree of religious liberty, the progress of which, in this period, will be considered later.

In consequence of the growth of the colonies, there are other forces set in motion, which aid the progress of religious freedom, withdrawing religion, more and more, from the control of the civil power. Among the first acts of the General Court

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[1] Cotton Mather's *Magnalia*, Vol. II, Book V, Sec. 4.
[2] Weeden, Vol. I, p. 155.

of Massachusetts under the charter, as we have seen, was that requiring every town to have and support an orthodox minister. The power of choosing the minister was, at first, put into the hands of the voters of the town. It was pointed out in a previous chapter, also, that the religious element was prominent in laying out the first New England towns. The town centered about the church. Ability to maintain a church and support a minister, made a community worthy of municipal privileges. In many cases the church was the town. There was no chance for friction between the two. Ecclesiastical and civil affairs were regulated by the same voters. This system served its purpose well in the early history of New England. The town voters were Puritans; they formed a church, Congregational in government, Calvinistic in doctrine.

Under the Charter of 1691 the Plymouth colony towns came under the jurisdiction of Massachusetts. Among these was the town of Swansea. Here the Baptists were in the majority. As early as 1667 the Plymouth Court allowed the Baptists to establish themselves at this place. Their church government was congregational. They chose their pastor and probably supported him by voluntary contributions, which was allowed under the law of 1657. "When they were under the government of Plymouth Colony," says Backus, "their ministers were treated as regular ministers."[1] Here was a town regularly and deliberately selecting and supporting a pastor who, in the eyes of the Puritans, was little better than a heretic; and it was all done legally. Massachusetts did not like it; she opposed it, and in 1693 tried to force a Congregational minister upon Swansea. The attempt was not successful; in the same year a second Baptist church was organized in the town. This was an invasion of the privileges of the Standing Order; but such invasions were not only possible but probable under the town church system. Swansea was an index of what was in store for the state church. Could

[1] Backus, *New England Church History*, p. 127.

the good Puritans have looked forward about a century and a half, they would have found many more towns like Swansea introducing ministers of a creed different from that of the Congregational. The first church of old Plymouth itself was one day to elect a pastor, of a denomination, with which Elder Brewster and his congregation would not fellowship. Such were the possibilities under the town-church system based as it was upon popular suffrage.

In 1719 a second attempt was made to force a Congregational minister upon Swansea. There were at this time two Baptist churches there and three ministers, "and no other religious society therein."[1] The attempt was not successful. Swansea remained Baptist, and continued a standing menace to the old state church.

Church and town stood together without embarrassment as long as all, or nearly all, of the inhabitants of the town made up the congregation of the church. Towns, however, grew rapidly, and it was not long before many of them were large enough to maintain two churches. In some cases two churches were very desirable for convenience and other reasons. Exceptions now had to be made to the law associating the town and church. Boston was made one of the exceptions in 1693. By 1700 there were four Congregational churches there. The church was practically divorced from the town. The church members in full standing chose the pastor, and the entire congregation contributed towards his support. The town-church system was broken by the Congregationalists themselves. There was now chance for other churches to build up in Boston. The Baptists improved the opportunity, and before 1720 they had two churches there. Nor was the feeling between them and the Congregational churches any more bitter than it often was between two Congregational churches. The Half-way covenant divided the First Church. The seceders organized the Third. There is evidence that the First

[1] Backus, p. 139.

Church pastor was better disposed to the Baptists than to his brethren of the Third. Churches were now as ready to welcome dissenters as to fellowship with some congregations of their own denominations. That this prepared the way to a better treatment of those of other denominations, there can be little doubt.

In Connecticut the town of Windsor was divided over the selection of a minister. The minority party was allowed by the General Court to organize a church and levy taxes for its support.

In 1669 the church of Hartford was divided by the Half-way covenant. The party for the strict Congregational way, led by Mr. Whiting, asked the General Court for permission to organize a church. Under a law passed in the same year, as we have seen, any body of persons sound and orthodox in the fundamentals of religion were to be allowed to unite in church fellowship. Mr. Whiting received the permission and organized the second church of Hartford. The next step was to obtain permission for those who attended the church to pay their taxes for its support. This, too, was granted. So early were steps taken in Connecticut toward allowing its citizens to support the church of their choice.

In the first quarter of the eighteenth century the breaks between town and church became more numerous. Questions of church government, doctrine, matters of convenience divided churches. The church of Andover was divided over a question concerning the location of a new church edifice.[1] The dispute between the two factions continued for several years. The General Court decided it by dividing the town into two precincts or parishes. Each supported a minister by levying taxes. The town of Gloucester was divided in a similar manner for the purpose of sustaining two churches. In order to comprehend how general was the breaking up of the old town-church system, turn to the index of Volume VII of

[1] See S. L. Bailey's *Historical Sketches of Andover*, pp. 427–429.

the Records of Connecticut. Under the item Ecclesiastical Affairs, three-fourths of the references are to divisions of towns into two or more parishes, because of the need of additional churches.

The General Court would not consent to make these divisions unless a strong case was presented. Many petitions for permission to build a second church were denied. In 1712 the people of Newbury, Massachusetts, decided to move their meeting house two miles further westward. Those who were at the time living near the old church opposed the plan. They were, however, compelled to submit to the wish of the majority. The minority now petitioned the General Court for permission to organize a second church in the vicinity of the old one. Their petition was denied. They were, therefore, obliged to attend and support the town church. There was, however, a way out of the difficulty. The dissatisfied minority became members of the Church of England, and under the law of 1708 organized an Episcopal church. As Episcopalians they were compelled to support the church established by law. But exemption laws were not far distant. Fifteen years after the Newbury Episcopal church was organized, all Episcopalians were exempted from contributing to the support of the state church. The break between church and town in Newbury as in many other towns was now complete. This gave opportunity to bring in all denominations on a nearly equal footing.

In addition to these petitions from parts of a town, there were often applications from individuals requesting privilege to attend the church of their favorite minister and contribute their taxes to his support. These requests, too, were often granted. Thus the Congregationalists themselves found their laws unsatisfactory. They petitioned for relief. They were continually requesting the General Court for permission to attend and support the church of their choice. Is it a wonder, then, that the Baptists and Episcopalians follow their example? The way was open. As soon as dissenters were able to bring

sufficient pressure to bear upon the General Court, the same privileges would be granted to them.

The colonization of New England was not to be left entirely to the Puritan Congregationalists. Baptists, Quakers and Episcopalians were early upon the territory and were not to be rooted out by hostile legislation. They continued to increase because of persecution and in spite of it. Their numbers, however, were not so large that they could command the indulgence of an unfriendly state church. But at a time when that church had lost much of its religion, when its character was weakened, when commerce and trade were enlarging men's intellectual horizon, when the old system had begun to break up, at such a time the dissenters, with strong men as leaders, were able to win a few favors.

By the year 1700 there were nine Baptist churches in New England.[1] One century later this little band of Baptists had grown to three hundred and twelve churches and twenty-three thousand six hundred members. They were comparatively few but their vigorous blows struck at the state church, made them a power for religious liberty.

The Episcopalians were for a long time unable to get a foothold in New England. During the time of Andros, efforts had been made to impose the church by force upon the people. This did not succeed. A few individuals in Western Connecticut, still fewer in Massachusetts were strengthened in the faith, and kept it alive during the latter part of the seventeenth century. It was not until the organization of the Society for the Propagation of the Gospel in 1701, that the Episcopal church took root and became firmly established in New England. Under the auspices of this society missionaries were sent to America, and wherever a little band of Episcopalians could be gathered, there a minister would go to baptize and encourage the people to hold fast and hope for better things. Here and there, there were enough Episcopalians to petition

[1] Backus, p. 237.

the society to send over a minister. "The want of a minister is the greatest of our afflictions," wrote the Episcopalians of Stratford in 1711 to Queen Anne.[1] By 1708 Connecticut had passed her Toleration Act, granting liberty of conscience to all dissenters. By 1722 a society was firmly established and provision made for employing a regular pastor. In 1724 the first Episcopal church edifice in Connecticut was built.[2]

In the eighteenth century Quakers, Baptists, Episcopalians were no longer regarded as social outlaws as in former years. Their cause had been dignified by the men of high character among their number. Dunster, a Baptist, was for some time President of Harvard College. Rector Cutler of Yale College had identified himself with the Episcopalians. A Quaker had several times been governor of Rhode Island.

What shows the changed sentiment towards dissenters, particularly the Baptists, is the ordination at Boston in 1717. Dr. Mather, his son and Mr. John Webb were invited to assist in the ordination of Mr. Ellis Callender as pastor of the Baptist church in Boston.[3] In his account of this ordination Mr. Backus says: "Dr. Increase Mather wrote a preface to the ordination sermon, in which he said, 'It was a grateful surprise to me when several brethren of the Antipaedobaptist persuasion came to me, desiring that I would give them the right hand of fellowship in ordaining one whom they had chosen to be their pastor.' Dr. Cotton Mather preached the ordination sermon, in which he spake much against cruelties which had often been exercised against dissenters from the ruling powers, both in this and other countries, and then said, 'If the brethren in whose house we are now convened, met with anything too unbrotherly, they with satisfaction hear us expressing our dislike of everything that looked like persecution in the days that have passed over us.'"

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[1] Beardsley's *History of the Episcopal Church in Connecticut*, Vol. I, p. 26.
[2] Beardsley, Vol, I. p. 52.
[3] Backus, *New England Church History*, p. 137.

The crowning triumph of the dissenters was the victory at Yale College in 1722, when Rector Cutler and several of his associates becoming convinced "of the invalidity of the Presbyterian ordination, in opposition to the Episcopal," resigned their positions to take up work in the interests of the Episcopal church. It gave prestige to the Episcopalians and humiliated the Congregationalists. In a letter to Cotton Mather, Joseph Webb, of Fairfield, said of this event: "They are, the most of them, reputed men of considerable learning, and all of them of a virtuous and blameless conversation. I apprehend the axe is hereby laid to the root of our civil and sacred enjoyments, and a doleful gap opened for trouble and confusion in our churches. The churchmen among us are wonderfully encouraged and lifted up by the appearance of these gentlemen on their side; and how many more will, by their example, be encouraged to go off from us to them, God only knows. It is a very dark day with us; and we need pity, prayers, and counsel."[1] President Woolsey said of the same event, "I suppose that greater alarm would scarcely be awakened now, if the theological faculty of the college were to declare for the Church of Rome, avow their belief in Transubstantiation, and pray to the Virgin Mary."[2]

The minor sects were just beginning to manifest their strength early in the eighteenth century. They grew rapidly, and at the close of the century their opposition is the strongest force operating against the Standing Order in behalf of religious liberty.

The condition of religion in New England at the beginning of the eighteenth century favored the development of freedom. The pioneer Puritans were fresh from the struggles of the great Reformation in Europe. Provisions for religion were the important features of their legislation. It was asked, in all seriousness, of the candidate for citizenship, is he orthodox and sound in the fundamentals of Christian religion. That

[1] Beardsley, Vol. I, p. 39.

[2] Beardsley, Vol. I, p. 29.

question is not asked in the eighteenth century; and when asked of candidates for church membership, it is a mere form. The state church had become degenerate. It was brought about largely by the Half-way covenant.

One of the chief arguments advanced by the opposers of the Half-way covenant, was that its adoption would bring into the church a large number of unregenerate persons; that the moral standing of the members would be lowered and the church would be secularized. Exactly such were its results. Those who had been baptized in infancy, and were not "scandalous in life," could come into the church by owning the covenant. Church membership became very common. It was difficult to say just what was meant "by scandalous in life." Some ministers put a very liberal construction upon the words. The line of demarcation between the worthy and unworthy was very indistinct. It was not long before there were found among church members some whose moral character was questionable, and others who were known to be guilty of serious crimes.

The Half-way covenant was a compromise on the part of the church. It was intended to bring the people into the church though not in full communion. It was designed to be merely the initial step to church membership. But one compromise prepared the way for another and deviations from the original intent of the covenant became common. For a few years the distinction between the members in full communion and those in the Half-way relation was kept up. The former only were permitted the privileges of the communion table. In the beginning of the eighteenth century, however, Stoddard began to preach the doctrine that the communion table was a means of regeneration, and that the unregenerate were specially invited to come to it. This doctrine spread through New England. It practically gave full membership to all who had come in, in the Half-way relation, and thus secularized the church. Its history is briefly summed up by the Rev. Isaac Backus, in the following words: "The first fathers of New

England held, that each believer stands in the same relation to his children as Abraham did to his in the covenant of circumcision; and therefore that each believer had a right to bring his children to baptism, which no others had. But forty years after, a door was opened for those who had been baptized in infancy, and were not scandalous, to bring their infants to baptism, though none were to come to the ordinance of the supper without a profession of saving grace. Yet in forty years more, an open plea was published, before described, for all baptized persons who were not openly scandalous, to come to the Lord's supper, as well as to bring their children to baptism. And in a third forty years, these things had turned the world into the church, and the church into the world, in such a manner as to leave very little difference between them."[1]

The religion of the old Puritan church had declined. The Half-way covenant was not the whole cause of it. The tendency of state churchism from the beginning had been towards secularization. Massachusetts and New Haven put a distinct premium on church membership. Can it be doubted that men were drawn into the church for the purpose of getting civil privileges? The Half-way covenant, too, was hailed for the political advantages it would bring. The door of the church was opened wide. A throng pushed in; no selection was made or could be made. The town was formerly merged in the church, now the church was merged in the town.

The condition of religion in New England at the beginning of the eighteenth century may be gathered from the writings of that day. In the election sermon at Boston, May 16, 1683, the Rev. Samuel Torry, of Weymouth, said: "There is already a great death upon religion, little more left than a name to live; the things which remain are ready to die, and we are in great danger of dying together with it. This is one of the most awakening and humbling considerations of

[1] Backus, *New England Church History*, p. 150.

our present state and condition. Oh! the many deadly symptoms of death that are upon our religion! Consider we, then, how much it is dying respecting the very being of it, by the general failure of the work of *conversion;* whereby only it is that religion is propagated, continued and upheld, in being among any people. As conversion work doth cease, so religion doth die away; though more insensibly, yet most irrecoverably."[1] In 1697 Dr. Increase Mather wrote: "Dr. Owen has evinced, that the letting go this principle, that particular churches ought to consist of regenerate persons, brought in the great apostasy of the Christian church. The way to prevent the like apostasy in these churches is to require an account of those who offer themselves to communion therein concerning the work of God on their souls, as well as concerning their knowledge and belief."[2] Three years later he wrote: "If the begun apostasy should proceed as fast the next thirty years, as it has done these last, surely it will come to that in New England, (except the Gospel itself depart with the order of it), that the most conscientious people therein will think themselves concerned to gather churches out of churches." Mr. Backus quotes the following from a book published in 1700 by Mr. Willard: "It hath been a frequent observation, that if one generation begins to decline, the next that follows usually grows worse, and so on, until God pours out His spirit again upon them. The decays which we already languish under are sad; and what tokens are on our children, that it is like to be better hereafter? God be thanked that there are so many among them who promise well; but, alas! how doth vanity, and a fondness after new things abound among them? How do young professors grow weary of the strict profession of their fathers, and become strong disputants for those things which their progenitors forsook a pleasant land for the avoidance of!"[3]

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[1] Backus, p. 128. [2] Backus, p. 129. [3] Backus, p. 129.

With so great a departure from the piety of the early New England church, there was not likely to be that jealousy of dissenters which formerly existed. The Puritans were no longer to be charged with ecclesiastical exclusiveness. They were not sufficiently interested in their religion to guard it so carefully. The dissenting sects, still few in number but growing rapidly, took advantage of these conditions, and petitioned for privileges which they soon obtained. They were not strong in any of the colonies when they began to petition for exemption from contributing to the support of the ministers of the Standing Order. In Massachusetts the Baptists were the leading sect, but, as said, they had only nine churches in all New England in 1700. In Connecticut the Episcopalians were the strongest, but they did not begin to exhibit any strength until long after the colony had passed its toleration law of 1708. In New Hampshire there were no churches of the minor sects in the early part of the eighteenth century. Backus says that there was no Baptist church in this colony in 1740. Rhode Island's population was a mixture of Quakers, Baptists and Episcopalians. The Episcopalians claimed to have been the leading sect and to have been the pioneers of church order. Whitfield erroneously speaks of the Episcopalian as the established church of Rhode Island. It is probable, however, that the larger part of Rhode Island's population was Baptist.

Though the dissenters were not numerous, yet so favorable were the conditions that religious liberty was destined to advance early in the eighteenth century. This was the period of exemption laws. The descendants of the Puritans were ready to admit the right, at least, of dissenters to contribute their taxes for the support of their own churches. They passed laws exempting them from supporting the state church. But the laws were purposely made impracticable. Neither Baptists, Quakers nor Episcopalians found much relief in them. They required the dissenter to furnish a certificate from the church with which he was identified. They empow-

ered the assessor to *omit* to tax those who were known to have furnished the necessary certificates and to be entitled to exemption. In this respect the laws were carelessly carried out. The assessor would often fail to omit Baptists, Quakers or Episcopalians from his list, and consequently they were taxed. Objection could be made; appeals to the courts could be taken, but in such cases the poor dissenter had little prospect of gaining his point. And in order to preserve the few benefits that the exemption laws did confer, petitions for their renewal had to be sent in to the General Court every time the laws expired. In spite of all these difficulties, the exemption laws must be regarded as a long step toward freedom. They were an admission of the right of exemption claimed by dissenters. And, although petitions had to be gotten up for their renewal, yet, after the laws had once been made, their renewal was never desired, and latterly was given unsolicited. Difficulties with certificates and tax lists were mere matters of administrative detail, and their defects could easily be corrected.

The progress of religious liberty in Massachusetts was very gradual. The Episcopalians were the first to be favored. In 1627 it was found that the laws taxing all for the state church were working hardship to certain members of the Church of England; it was, therefore, enacted, that in the future they be permitted to pay their taxes to their own minister, provided there is one in the town.[1] This law was limited to five years. It was re-enacted in 1735 and continued for five years more.[2] In 1742 it was again renewed, and no time limit put upon it.[3]

The next to be favored were the Baptists and Quakers. In 1728 the polls of Baptists and Quakers were exempted for five years. In the following year the polls *and estates* of members of these two sects were exempted. In 1737 the law in behalf of the Quakers was re-enacted and continued for ten

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[1] *Province Laws*, 1727–8, Chap. VII.

[2] *Laws*, 1735-6, Chap. XV. [3] *Laws*, 1742-3, Chap. VIII

years. For the Baptists the law was renewed in 1740 and continued for ten years. The period of the great awakening is marked by no important changes in the exemption laws. They are continued as before. The law of 1747, exempting both Baptists and Quakers, was taken up, and passed without any petition requesting its renewal. Had this not been done, the Baptists would have brought their grievances before the King. They were on the point of doing so because of the difficulties placed in their way in taking advantage of the laws. It certainly was difficult for the dissenters to conform to the details required of them. There were, doubtless, many cases of persecution under the laws. Hovey, in his *Life and Times of Isaac Backus*, cites numerous instances. He says that dissenters were forced to pay rates, their property was seized, and their persons were cast into prison. The laws were fair enough, but they were too often maliciously executed.

The irregularities, however, were not all on one side. During the years of the great awakening, the Separate churches that were organized, petitioned for the privileges enjoyed by other dissenters. These privileges the court did not choose to give. In order to cut loose from the Standing Order and to maintain their own churches, without contributing to the support of both, these Separatists organized nominal Baptist churches and claimed exemption. To protect itself from this irregularity, the colony had to make the laws for the exemption of Baptists more rigorous. Accordingly the Act of 1752 provided: "That no person for the future should be esteemed to be an Anabaptist," "but such whose names are contained in the lists taken by the assessors, or such as shall produce a certificate, under the hands of the minister and of two principal members of such church, setting forth that they conscientiously believe such person or persons to be of their persuasion,"[1] etc. It was also provided "that no minister nor the members of any Anabaptist church, as aforesaid, shall be esteemed quali-

[1] *Acts and Resolves of the Province of Massachusetts Bay*, 1752–3, Chapter 15.

fied to give such certificates, as aforesaid, other than such as shall have obtained from three other churches, commonly called Anabaptists, in this or the neighboring provinces, a certificate from each respectively, that they esteem such church to be one of their denomination, and that they conscientiously believe them to be Anabaptists," etc. This law pressed hard upon the Baptists, and they made a vigorous remonstrance against it. It is the only law made in Massachusetts, that owes its origin directly to the great awakening. In 1757 an exemption law similar to those of preceding years was enacted; it continued for thirteen years.[1] There were the same objections to this law. Dissenters could not obtain justice because of the administrative difficulties placed in their way. "No tongue or pen," says Mr. Backus, "can fully describe all the evils that were practiced under the last law."[2] In 1770 exemption laws were again passed in favor of dissenters. The certificate system, so objectionable to all sects, was still retained. The law differed otherwise but little from the old laws; the slight changes were in favor of the dissenters.

During the early period of our struggle with Great Britain efforts were made to enlist the sympathy of the Continental Congress in behalf of the dissenters of Massachusetts. Very little was accomplished. A resolution of sympathy was passed by the Provincial Congress that met in Cambridge in December 1774. Further than this, nothing was gained; and it is a question whether the cause of the Baptists was not injured as sinister designs were said to have prompted their appeal to Congress.[3] There can be no doubt that the dissenters had a great amount of trouble to avail themselves of the exemption laws enforced, as they were, in many cases, by prejudiced officers. At a later period when Massachusetts permitted ministers of dissenting sects to recover from the town treasurer

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[1] *Acts and Resolves*, 1757–8, Chapter 19.
[2] Hovey, *Life and Times of Isaac Backus*, p. 172.
[3] Hovey, *Life and Times of Backus*, p. 214.

the taxes paid by dissenters for the support of the church, the execution of the law rendered it practically useless. Buck mentions an instance in which "it required fourteen suits at law before a town treasurer yielded the taxes," and also another in which it required "an expense of one hundred dollars and four years time to get four dollars out of his hands for the use of a Baptist minister."[1] There were, therefore, very substantial reasons for amending the laws.

It is interesting to see just what arguments were used against the certificate system. They are all based on the theory that church and state should be independent of each other. They are clearly stated in an appeal to the public for religious liberty. As given by Hovey they are:

"(1) Because to give certificates implies an acknowledgment that civil rulers have a right to set up one religious sect above another; which they have not.

"(2) Because civil rulers are not representatives in religious matters, and therefore have no right to impose religious taxes.

"(3) Because such practice emboldens the actors therein to assume God's prerogative; and to judge the hearts of those who do not put into their mouths.

"(4) Because the church is to be presented as a chaste virgin to Christ; and to place her trust and love upon any other for temporal support is playing the harlot, and so the way to destroy all religion.

"(5) Because the practice tends to envy, hypocrisy and confusion, and so to the ruin of civil society."[2]

After the Declaration of Independence Massachusetts proceeded to adopt a new constitution. It was framed by the General Court in 1777, and referred to the next court for adoption. One of its articles provided for the restoration of many of the old eccleisastical laws. Powerful opposition to this article was made by the Baptists and others. The whole

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[1] Buck's *Massachusetts Ecclesiastical Law*, p. 43.

[2] Hovey, *Life and Times of Isaac Backus*, p. 195.

constitution was, however, rejected. In 1779 a convention called to frame a constitution, prepared the one that was adopted. It contained the following article in its Bill of Rights:

"As the happiness of a people, and the good order and preservation of civil government, essentially depend upon piety, religion and morality; and as these cannot be generally diffused through a community but by the institution of the public worship of God, and of public instructions in piety, religion and morality; therefore, to promote their happiness, and to secure the good order and preservation of their government, the people of this Commonwealth have a right to invest their Legislature with power to authorize and require, and the Legislature shall, from time to time, authorize and require the several towns, parishes, precincts, and other bodies politic or religious societies, to make suitable provision, at their own expense, for the institution of the public worship of God, and for the support and maintenance of public Protestant teachers of piety, religion and morality, in all cases where such provision shall not be made voluntarily.

"And the people of this Commonwealth have also a right to, and do, invest their Legislature with authority to enjoin upon all the subjects an attendance upon the instructions of the public teachers aforesaid, at stated times and seasons, if there be any on whose instructions they can conscientiously and conveniently attend.

"Provided, notwithstanding, that the several towns, parishes, precincts, and other bodies politic, or religious societies, shall, at all times, have the exclusive right of electing their public teachers, and of contracting, with them for their support and maintenance.

"And all moneys paid by the subject to the support of public worship, and of the public teachers aforesaid, shall, if he require it, be uniformly applied to the support of the public teacher or teachers of his own religious sect or denomination: Provided, there be any on whose instructions he attends;

otherwise it may be paid toward the support of the teacher or teachers of the parish or precinct in which the said moneys are raised.

"And every denomination of Christians, demeaning themselves peaceably and as good subjects of the Commonwealth, shall be equally under the protection of the law; and no subordination of any one sect or denomination to another shall ever be established by law."[1]

This article met with great opposition, but it embodied the opinion of the majority of the convention, and hence was adopted. The old state church still stood and triumphed. Another half century was to roll over its head before Massachusetts could entertain entire religious freedom.

Turning to Connecticut, we find the history of religious liberty similar to its history in Massachusetts. The early part of the eighteenth century is characterized by exemption laws. In 1708 Connecticut passed its Act of Toleration. It provided that all persons who soberly dissented from the worship and ministry established by law, were to be allowed liberty of conscience. This law, however, did not exempt any one from contributing toward the support of the Standing Order, the Congregational church. The first exemption law was enacted, as in Massachusetts, in 1727. It was in favor of the Episcopalians. It was five years after Rector Cutler and his associates had declared for the Church of England and only four years after the first Episcopal church was organized in Connecticut. The law was enacted in response to a petition from the Episcopalians of Fairfield. The records of this year say:[2]

"Upon the prayer of Moses Ward, of Fairfield, churchwarden, and the rest of the church-wardens, vestrymen and brethren, representing themselves under obligation by the Honorable Society and Bishop of London to pay to the sup-

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[1] Hough's *American Constitutions*, Vol. I, p. 622.
[2] *Colonial Records of Connecticut*, May, 1727.

port of the Established Church, praying this Assembly, by some act or otherwise, to free them from paying to dissenting ministers and for the building dissenting meeting-houses, etc.

"Be it enacted by the Governor, Council and Representatives in General Court assembled, and by the authority of the same, That all persons who are of the Church of England, and those who are of the churches established by the laws of this Government, that live in the bounds of any parish allowed by this assembly, shall be taxed by the parishioners of the said parish by the same rule and in the same proportion, for the support of the ministry in such parish; but if it so happen that there be a society of the Church of England, where there is a person in orders according to the canons of the Church of England, settled and abiding amongst them, and performing Divine service, so near to any person that hath declared himself of the Church of England that he can conveniently and doth attend the public worship there, then the collectors, having first indifferently levied the tax as above said, shall deliver the taxes collected of such persons declaring themselves and attending as aforesaid, unto the minister of the Church of England living near unto such persons; which minister shall have full power to receive and recover the same, in order to his support in the place assigned to him. But if such proportion of taxes be not sufficient in any society of the Church of England, to support the incumbent there, then such society may levy and collect of them who profess and attend as aforesaid, greater taxes at their own discretion, for the support of their minister. And the parishioners of the Church of England, attending as aforesaid, are hereby excused from paying any taxes for building meeting houses for the present established churches of this Government."

The law seems to be unusually liberal, for in response to the petition for Fairfield's exemption, a general law was enacted. But Connecticut was not ahead of her time in religious liberty. Her great liberality may be partially explained by the fact that she was in great danger of losing her charter

at this time. In the execution of the law she made up for her liberality. The law said that the Episcopal ministers must be established so near to the one that "hath declared himself of the Church of England that he can conveniently and doth attend the public worship." The officers claimed that by "near" meant about two miles. According to this interpretation the law applied to few; those who came from neighboring towns to attend the Episcopal Church, did not enjoy exemption under the law. Laws similar to this one were enacted in 1729 in behalf of the Quakers and Baptists, and these, too, were rigidly enforced.

The period of the great awakening was a time of general agitation throughout this colony. The Saybrook Platform, which had been adopted in 1708, established a semi-Presbyterian rather than a strictly Congregational government. The ecclesiastical power that it conferred was brought into exercise to correct the disorders incident to the awakening. In 1641 a "Grand Council" of ministers and laymen, at the suggestion of the General Court, met at Guilford, and resolved: "That, for a minister to enter another minister's parish, and preach or administer the seals of the covenant, without the consent of, or in opposition to the settled minister of the parish, is disorderly," etc.[1] In the following year the legislature enforced the decision of the Council by "An Act for regulating abuses and correcting disorders in ecclesiastical affairs." It provided (1) that any minister that should enter, without invitation by the settled minister or his congregation, the parish of another to preach or exhort, should be denied of the benefit of any law enacted for the support and encouragement of the ministry. (2) Every member of an association of ministers that undertook to license a candidate for the ministry, or to decide ecclesiastical disputes, contrary to the provisions of the Saybrook platform, should suffer the same penalty. (3) The offender was to be punished without trial;

[1] Tracy, *The Great Awakening*, p. 303.

the information given by the regular parish minister or any two members of the parish committee was to be sufficient evidence. (4) Exhorters were to be punished as vagrants.[1] This is one of the laws that Connecticut saw fit to make during the period of the great awakening. It was enacted because many ministers of the Standing Order were opposed to the revival, and many others not opposed to it recognized the disorders to which it gave rise. As a church the Congregationalists opposed the revival. Those members who were in sympathy with it withdrew from the church to organize new Congregational churches. They became Separates. They at once claimed exemption from paying to the support of the church which they had left. This exemption was denied. The Separates, thereupon, as in Massachusetts, organized nominal Baptist churches, and then claimed the exemption of Baptists. In 1743 the General Court repealed the "Act for the relief of sober consciences," of 1708. Dissenters had now to obtain mere *toleration* by special act of the legislature; and, of course, special acts were difficult to obtain. Many of the Separates refused to pay taxes for the old church. In consequence, their property was levied upon and sold. If satisfaction could not thus be obtained, they were arrested and committed to jail. They were now looked upon as martyrs, and won the sympathy of their fellows.

The differences, too, between the Separate churches and the state churches gradually vanished. The Separates insisted upon regeneration as a qualification for church membership. After the preaching of Jonathan Edwards had caused the Half-way covenant to be laid aside, the state churches came back to their earlier standard. This left no practical differences between them and the Separate churches. The former now proved unfaithful to the state. With slight provocation church after church repudiated the Saybrook platform and

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[1]Abstract of the law given in *The Great Awakening*, p. 305.

identified itself with the Separates. The struggle of the state with these churches had now to come to an end.

In 1784 the Saybrook Platform was abrogated, and a law containing the following provisions enacted:

(1) No person soberly and conscientiously dissenting shall incur any penalty for not attending the worship and ministry established by law.

(2) All persons who belong to the denominations known as Episcopal, Congregational (Separates), Baptist or Quaker, and those who usually worship with societies of any of these sects, shall be exempted from supporting the state church.

(3) Societies of dissenting sects may have the same privileges of supporting their ministers, repairing their meeting-houses, etc., as those of the church established by law.

(4) All who do not attend and help to support a society of one of the dissenting sects shall be taxed for the support of the ministry of the society wherein they dwell.

This law was generous. But it still retained the old Standing Order; it required certificates of dissenters; it taxed every citizen for the support of religion. These were objections to the law, and they must be removed before the battle for religious liberty in Connecticut would cease.

In New Hampshire the law of 1714[1] made the church an institution of the town. This law was "not at all to interfere with her Majesty's grace and favor in allowing her subjects liberty of conscience;" "all such as conscientiously dissented from the worship established by law," and "attended the public worship of God on the Lord's Day according to their own persuasion," were to be "excused from paying towards the support of the ministry of the town." It looks very fair, and would have been fair, had a liberal construction been put upon it. This was not done; everybody was taxed, and whenever a dissenter claimed exemption he was asked to furnish proof that he was a dissenter. At every point his

[1] Quoted in the Second Chapter.

evidence was contested by the state. One of the dissenters, to prove that he was a Baptist, was required to prove that he had been immersed. It was not until the nineteenth century that Baptists and others were recognized as distinct sects. Up to this time it was assumed that all were to be taxed; each individual had to fight for his exemption.

In 1784, at the recommendation of the Continental Congress, New Hampshire reorganized its government. In the Bill of Rights of the Constitution adopted was an article that bade fair to furnish sufficient protection to dissenters. It was similar to the article on religous liberty in the constitution of Massachusetts. Each closed with the provision that "no subordination of any sect or denomination to another shall ever be established by law."

In spite of this article, however, the law of 1714 was allowed to prevail. In 1791 it was slightly altered. The power of settling the minister and taxing for his support was put into the hands of the selectmen of each town. The change made no difference to the dissenters; they gained nothing from it. Not until the nineteenth century were they to get the religious liberty they so ardently desired.

The ecclesiastical history of Vermont begins, as we have seen in Chapter II, with the adoption of its constitution. The third article of the Bill of Rights declared "that no man ought, or of right can be compelled, to attend any religious worship, or erect or support any place of worship, or maintain any minister contrary to the dictates of his conscience."

Honorable Daniel Chipman, says in his Memoir of Thomas Chittenden:

"The framers of our Constitution, having, as suggested, founded it on the equal rights of the citizens, and having pretty correct notions of religious liberty, had no idea of authorizing the Legislature to tax the minor sects for the benefit of the Standing Order, yet they considered that as all classes of the community had a common interest in the support of public worship, as they had in the support of common

schools, they ought to contribute in like manner for its support. And they authorized the Legislature to pass laws to enforce the observation of the Sabbath, and to tax the people for the support of public worship, trusting that they would do it in such manner as to afford no just ground of complaint."[1]

In 1781 the Legislature authorized towns to levy taxes on lands within their limits for the purpose of building meeting-houses, school-houses and bridges. In 1783 provision was made for the support of ministers. The law, in part, is as follows:

"Whereas, it is of greatest importance to the community at large, as well as to individuals, that the precepts of Christianity and rules of morality be publicly and statedly inculcated on the minds of the inhabitants;

"Therefore, be it enacted, etc., That whenever any town or parish shall think themselves sufficiently able to build a meeting-house, or settle a minister, it shall be the duty of the town or parish clerk, on application of seven freeholders of such town or parish, to warn a town or society meeting, mentioning the time, place and matter to be debated, giving twelve days' notice, by posting the same at the most public place, or places, in said town or parish; and that two-thirds of the inhabitants of such town or parish, who shall meet agreeable to such warrant, being legal voters, and of similar sentiments with respect to the mode of worship, shall be hereby authorized to appoint a place or places for the public worship of God, and fix on a place, or places, for building a house or houses of worship, and vote a tax, or taxes, sufficient to defray the expense of such building, or buildings; and also to hire, or otherwise agree with, a minister, or ministers, to preach in such town or parish, either to supply such town or parish with preaching, or on probation for settlement; and, further, to vote such minister, or ministers, such settlement or settlements

[1] *Records of Governor and Council of Vermont*, Vol. I, Appendix E.

in money, or otherwise, as to them shall seem equal; and to vote such minister, or ministers, such annual support in money, or otherwise (to be agreed on between such minister, or minister and people), as shall be found necessary; to be assessed on the polls and rateable estates of persons living or estates lying within the limits of such town or parish."

By the same law provision was made for dissenters. It said: "Whereas, there are in many towns and parishes within this state, men of different sentiments in religious duties, which lead peaceable and moral lives, the rights of whose conscience is not to control; and likewise some, perhaps, who pretend to differ from the majority with a design to escape taxation;

"Therefore, Be it enacted, that every person, or persons, being of adult age, shall be considered as being of opinion with the major part of the inhabitants within such town or parish where he, she or they shall dwell, until he, she or they shall bring a certificate, signed by some minister of the Gospel, deacon or elder, or the moderator in the church or congregation to which he, she or they pretend to belong, being of a different persuasion; which certificate shall set forth the party to be of their persuasion; and until such certificate shall be shewn to the clerk of such town or parish (who shall record the same), such party shall be subject to pay all such charges with the major part as by law shall be assessed on his, her or their polls or rateable estate."[1]

As in the other New England states, the certificate system for dissenters was adopted, and it met with the same opposition. For, in many of the towns the proportion of dissenters was large. The objection was not so much to certificate as to the principle it involved. Backus declared, in Massachusetts, that to give a certificate was an acknowledgment that the State did of right control in church matters. The same view prevailed in Vermont; for, after the apparently objectionable

[1] *Records of the Governor and Council of Vermont*, Appendix E, p. 401.

features of the certificate law were removed the opposition continued as great as ever. Complete separation of church and state was what was wanted.

Rhode Island never had a state church. The charter of 1663 made religious liberty a part of its fundamental law. It would not tolerate levying taxes for the support of religion. In 1716 there were rumors that movements were on foot to set up the Episcopal church. A law was at once made that "what maintenance or salary may be thought needful or necessary by any churches, congregations, or societies of people now inhabiting, or that may hereafter inhabit, within any part of this government, for the support of their or either of their minister or ministers, may be raised by free contribution and no other ways."[1]

Rhode Island's laws are said to have disfranchised Catholics for many years. "All men (professing Christianity) and of competent estates, and of civil conversation, who acknowledge and are obedient to the civil magistrate, though of different judgment in religious affairs (Roman Catholics excepted), shall be admitted as freemen." These are the words that appear in one of the laws of the colony. There is much dispute about the words in parenthesis, "Roman Catholics excepted." Arnold claims that they are an interpolation made when the laws were compiled.[2]

In the period from 1691 to 1787 we have noticed four main forces operating to bring about the separation of church and state: (1) The enlarged commercial and industrial life of New England withdrew the colonists' attention from religion. Material prosperity was sought for at the expense of the higher spiritual prosperity. In the early period the preservation and maintenance and extension of the church was their chief concern. In the eighteenth century less attention was given to

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[1] Palfrey, *History of New England*, Vol. III, p. 435.

[2] For a discussion of the phrase, see *Arnold's History of Rhode Island*, Vol. II, pp. 491-6.

the church and religion and more to the state and commerce. Keeping out dissenters was not so important as driving a good bargain with them. A more liberal and a more modern sentiment, too, was brought about by the commercial prosperity of New England in this period. (2) The breaking up of the old town-church system prepared the way for each citizen to support the church of his choice. Baptists and Episcopalians had now only to ask for privileges already granted to many of the Congregationalists. (3) The dissenters strengthened in numbers, guided by wise leaders, were a power for religious liberty. The state with its church had to make one concession after another to them. (4) The decline in religion and the secularization of the church weakened the cause of the Standing Order, an event of which the more vigorous dissenting sects were not slow to take advantage.

CHAPTER V.

Development of Religious Liberty in the Nineteenth Century.—Dis-establishment.

During the period of the Revolution the dissenters, particularly, the Baptists, tried to make it appear that in ecclesiastical matters they were suffering what the Americans were in political. It was claimed that they were taxed without representation. But the colonists did not dispute the principle "no taxation without representation." They admitted that dissenters should not be taxed for the established church. Exemption laws involving the principle had been enacted. It is true that difficulties were put in the way so that a dissenter could not easily take advantage of the laws. But the right of exemption was admitted; that was not in question; the trouble was in the execution of the laws. Nothing, therefore, was accomplished by appropriating the political argument for ecclesiastical purposes.

After the colonies become a nation, the position that the United States took upon the question was important. It did much to settle the question in the states. Religious liberty was much discussed in the state conventions called to ratify the constitution. The constitution itself did not contain a guaranty of religious freedom. "No religious test shall ever be required as a qualification to any office or public trust under the United States" was all that it provided for. But this was a decided improvement upon the laws of the colonies. In all of them, with the exception of Rhode Island, religious tests were required.

This clause of the constitution provoked great discussion in the state conventions. In the North Carolina convention a delegate said, "Even the Pope of Rome might become President of the United States." Nowhere was the opposition stronger than in the enlightened state of Massachusetts, where a delegate said, he "shuddered at the idea that Romanists and pagans might be introduced into office, and that Popery and the Inquisition may be established in America."[1] What is of importance to us in this article is, that it brought the old question of religious liberty, in another form, prominently before all the people, and that at the end of the discussion, the article as given, became one of the fundamental laws of the country. So much was the gain for religious liberty.

But this is not all. So enlightened had the people become that exemption from religious tests was not sufficient. It was good as far as it went, but some of the states wanted to go farther. Six of them suggested amendments bearing upon religion. One of these was a New England state. New Hampshire recommended that "Congress shall make no laws touching religion, or to infringe the rights of conscience." The amendment suggested by Virginia is better. It says: "That religion, or the duty which we owe to our Creator, and the manner of discharging it, can be directed only by reason and conviction, not by force or violence; and, therefore, all men have an equal, natural and unalienable right to the free exercise of religion, according to the dictates of conscience; and that no particular religious sect or society ought to be forced or established by law in preference to others." The complete separation of church and state is here advocated as a principle.

The result of these amendments suggested by the states was the first amendment to the Federal Constitution. As to

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[1] Quoted from Elliot's *Debates*, by Dr. Philip Schaff, in *Church and State in the United States*, Papers of the American Historical Association, Vol. II, p. 408.

religion, this amendment provides, that "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof."

This was the only course the Federal government could take. The reasons for it are plainly pointed out by Dr. Schaff. He says: "The Constitution did not create a nation, nor its religion and institutions. It found them already existing, and was framed for the purpose of protecting them under a republican form of government, in a rule of the people, by the people, and for the people. Nearly all the branches of the Christian Church were then represented in America. New England was settled by Congregationalists; Virginia, the Carolinas and Georgia by Episcopalians; New York by Dutch Reformed, followed by Episcopalians; Rhode Island by Baptists; Pennsylvania by Quakers; Maryland by Roman Catholics; while Presbyterians, Methodists, Lutherans, German Reformed, French Huguenots, Moravians, Mennonites, etc., were scattered through several colonies. In some states there was an established church; in others the mixed system of toleration prevailed. The Baptists and Quakers, who were victims of persecution and nurslings of adversity, professed full religious freedom as an article of their creed. All colonies, with the effectual aid of the churches and clergy, had taken part in the achievement of national independence, and had an equal claim to the protection of their rights and institutions by the national government."[1]

"Thus Congress was led by Providence to establish a new system, which differed from that of Europe and the colonies, and set an example to the several states for imitation."[2]

By the time the Constitution went into effect the dissenting sects had grown strong in New England. With all the influence they could command, they kept appealing for religious

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[1] *Church and State in the United States*, in Papers of the American Historical Association, Vol. II, pp. 405-6.

[2] Idem, p. 406.

liberty. Exemption laws had been made and, of late, fairly enforced. They were now made more liberal and more liberally enforced. The cry for religious freedom kept up. The nineteenth century was too late to modify exemption laws and correct abuses. Laws governing in religious matters must be swept away all together. The states gradually recognized it, and submitted; Massachusetts would not submit until under her own laws her favorite church was torn asunder, and the greater part turned over to another denomination. But a new system was to be inaugurated. Rhode Island, New York, Virginia and the Federal government had taken the lead. The other states must fall in line and follow. The forces driving to this course were no longer resistible.

The youngest of the New England states was to lead all the rest in the dis-establishment of the church.

In the law of 1783 that enabled towns to erect meeting-houses and support ministers by taxes, provision was made for dissenters as has been pointed out. The certificate system was adopted. In many of the towns the large number belonging to the minor sects, made no little opposition to this system. The legislature was at length prevailed upon to modify the law. In 1801 the following law was passed: That every person of adult age, being a legal voter in any town or parish, shall be considered as of the religious opinion, and sentiment of such society, as is mentioned in said act, and be liable to be taxed for the purpose mentioned in said act, unless he shall, previous to any vote, authorized in and by said act, deliver to the clerk of said town or parish, a declaration in writing, with his name thereto subscribed, in the following words, to wit: I do not agree in religious opinion, with a majority of the inhabitants of this town.[1]

This was certainly a very liberal law, but it did not satisfy the opposers of the certificate system. For it was not the

[1] *Records of the Governor and Council of the State of Vermont.* Appendix E, p. 402.

system that was so offensive; it was the principle it involved. The opposition grew stronger every year. Every subsequent legislature for six years was labored with to repeal the law. In 1807 the legislature yielded. Towns were deprived of the power of supporting ministers or building meeting-houses by levying taxes. Religion was placed upon a voluntary basis; it was left entirely to the individual; each to support the gospel and to worship as he chose.

Connecticut was the next state to declare for religious liberty. She, at first, approached the voluntary system as nearly as it was possible without adopting it. Individuals were given entire freedom to attend any church and to support the church of their choice. Any one not satisfied with the Standing Order was at liberty to leave and attend church with any other denomination. The following is the law of 1791:

"Be it enacted by the Governor and Council, etc., That in future, whenever any person shall differ in sentiments from the worship and ministry, in the ecclesiastical societies in this state, constituted by law within certain local bounds, and shall choose, to join himself to any other denomination of christians, which shall have formed themselves into distinct churches or congregations, for the maintenance and support of the public worship of God, and shall manifest such his choice, by a certificate thereof, under his hand lodged in the office of the clerk of the society to which he belongs—such persons shall thereupon, and so long as he shall continue ordinarily, to attend on the worship and ministry in the church or congregation, to which he has chosen to belong as aforesaid, be exempted from being taxed for the future support of the worship, and ministry in such society."

This law was fair to dissenters. The state, however, still required every citizen to contribute to the support of the gospel. The taxes of all unconnected with any church were turned over to the Standing Order, and the struggle continued.

With the coming in of the nineteenth century a new order of things was destined to appear. The old charter that had

served as the fundamental law for a century and half, was to be laid aside. There was a conviction among the citizens, that it had outlived its day. The old Federal party supported by the Congregational clergy defended the charter against all attacks. The Republicans were rising and claimed that under the current order they were not treated fairly. It was claimed that a Republican did not have an equal chance with a Federalist in the court room before Federalist judges. Efforts were made in 1804 to call a convention to frame a constitution. These efforts failed as did those made in 1806. The old question of religions liberty became one of the issues. The dissenters to a good extent allied themselves with the Republicans. "The old Congregational clergy constituted the nucleus of the dominant party." They exercised a controlling influence in politics. "The ambitious minority" says Dr. Lyman Beecher, "early began to make use of the minor sects on the ground of invidious distinctions; thus, making them restive. So the democracy, as it rose, included nearly all the minor sects, besides the Sabbath-breakers, rum-selling tippling folks, infidels, and ruff-scuff generally and made a dead set at us of the Standing Order. It was a long time, however, before they could accomplish anything, so small were the sects and so united the Federal phalanx."[1] The "long-time" came to an end; the "Federal phalanx" was obliged to make some concession to some of the "minor sects" in order to get their support. When the Phœnix Bank was chartered, the state was to receive a bonus of fifty thousand dollars. It was suggested that the money be divided between Yale College and the Bishops' Fund. In this way the Episcopalians were to be conciliated. For some reason or other, when the money was divided the Episcopalians failed to get the amount intended for them. They thought that they were deceived by the party in power and now allied themselves, to a man, with the opposition. This made the opposing

[1] *Autobiography and Correspondence of Lyman Beecher*, Vol. I, p. 342.

minority a majority. The dissenting sects coalescing with the Republicans formed the Toleration party and, in 1817 captured the state. The old charter was abandoned. In 1818 a new constitution was adopted. In its Bill of Rights were incorporated the following clauses:

"The exercise and enjoyment of religious profession and worship, without discrimination, shall forever be free to all persons in this state, etc.

"No preference shall be given by any law to any Christian sect or mode of worship."

All religious denominations were now upon an equality, and religion was to be supported by voluntary contributions.

In 1792 New Hampshire amended her constitution, but the article on religion in the Bill of Rights was left unchanged. Towns were still permitted to make provision for public worship and to support it by taxes. Up to this time the Episcopalians were the only ones recognized as a distinct sect. All others were assumed to belong to the state church, and all were taxed, unless they could establish their right to exemption. Not until the first decade of the nineteenth century did New Hampshire relax her Puritan rigor. In 1804 she consented to recognize the Baptists as a sect. In this year the Legislature passed the resolution "that the people of this state, commonly known by the name of Free-will Anti-pedo Baptists' church and society, shall be considered as a distinct religious sect or denomination, with all the privileges as such, agreeable to the constitution."

In 1805 a similar resolution in favor of the Universalists was passed; and in 1807 one in favor of the Methodists. After the passage of the acts exemption under the laws became practicable. The dissenters were no longer molested. But the struggle against the state's controlling the church had begun. Concessions on the part of New Hampshire came too late. Not religious toleration but religious freedom was to characterize the nineteenth century. In 1819 the Toleration Act was brought before the Legislature. It met with strenu-

ous opposition. The advocates of freedom, however, could point to the example and experience of other states. Rhode Island, Vermont, Connecticut and the Federal government were on the side of freedom. Although it was argued that the Toleration Act meant "a repeal of the Christian religion," and "the abolition of the Bible," it was passed, and, as Sanborn says, "was productive of little evil and the highest positive good."

In the year following the dis-establishment in New Hampshire came the separation of Maine from Massachusetts. The battle for religious freedom had already been fought in many places, and now all the New England states, except Massachusetts, had surrendered the right of controlling the church. Maine could not go back to the old practice; the opposition was too great. She consequently incorporated the following article in her Bill of Rights:

"All men have a natural and unalienable right to worship Almighty God according to the dictates of their own consciences; and no one shall be hurt, molested or restrained in his person, liberty or estate, for worshipping God in the manner and season most agreeable to the dictates of his own conscience, nor for his religious professions or sentiments; provided, he does not disturb the public peace, nor obstruct others in their religious worship; and all persons demeaning themselves peaceably, as good members of the state, shall be equally under the protection of the laws, and no subordination nor preference, of any one sect or denomination to another, shall ever be established by law; nor shall any religious test be required as a qualification for any office or trust under this state; and all religious societies in this state, whether incorporate or unincorporate, shall at all times have the exclusive right of electing their public teachers, and contracting with them for their support and maintenance."[1]

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[1] Hough, *American Constitution*, Vol. I, p. 509.

The Bill of Rights of the Massachusetts constitution declared that "no subordination of one sect or denomination to another shall ever be established by law."

The dissenters were bent upon making the most of this clause. They claimed that to require certificates of them, for exemption from supporting the Congregational church, was subordinating them to that church. They, therefore, proposed to test the law.

In 1781 several dissenters in the parish of East Attleboro' were taxed as usually. A Mr. Balkom, who had refused to pay, was seized for his tax. He, therefore, brought suit for damages against the assessors, before a justice of the peace. The decision was given in favor of the assessors. The case was brought upon appeal to the County Court, where the decision of the justice was reversed and a judgment rendered in favor of Mr. Balkom. This judgment ought to have settled the certificate matter; but it did not. It was kept up throughout the state. Buck says the decision in Balkom's case "seems to have been local in its influence:"[1] Backus says, however, that it settled the controversy in Attleboro', and was extensively used elsewhere.[2]

Other efforts were made by the dissenters to secure justice under the Bill of Rights. According to the statutes enacted under it individuals might direct their taxes to be paid to any public Protestant teacher of piety, religion and morality, of their own sect, provided there was one in the town, on whose instructions they attended. A Universalist minister, Mr. Murray, brought suit under this law to recover the taxes which his parishioners had paid into the town treasury. The state's attorney in the case aimed to prove that a minister "who denied the eternal punishment of the wicked was not a teacher of 'piety, religion and morality.'"[3] The decision of the Court, however, was in Mr. Murray's favor.

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[1] Buck's *Massachusetts Ecclesiastical Law*, p. 41.
[2] Hovey's *Life and Times of Isaac Backus*, p. 246.
[3] Buck, p. 40.

In 1799 a law was enacted allowing the minister of a dissenting sect to recover from the town treasurer the taxes that had been paid for the support of religion by members of his congregation.[1] A Methodist minister tried to recover his share of the taxes under this law, but he failed because he was not "settled." He had preached in various places, from Pittsfield to Springfield, and consequently the law did not touch his case.

A few years later a peculiar construction was put upon the law that allowed individuals to support any public teacher of piety, religion and morality. The Supreme Court decided that ministers of unincorporated societies were not *public* teachers. The decision affected a large number of dissenting societies but few of which had been incorporated.

All these difficulties placed in the way of religious liberty, served only to make the dissenters more zealous in their opposition to any state interference in religious matters. They were now strong and well organized and it was only a question of a short time when the church establishment would be overthrown.

In 1811 the "religious freedom" act was passed. It was like the act passed in Connecticut twenty years before. Under this act any one could leave the Congregational church and attend a Baptist, Episcopal or any other church. His taxes went to the minister whose instructions he attended. He, however, had to file a certificate with the town clerk that he had joined a new society.

In 1820 an effort was made to amend the Bill of Rights so as to include the provisions of the religious freedom act of 1811. An amendment to this effect was prepared but was rejected by a large majority.

The Unitarian ascendency is the last chapter in the history of the struggle between the churches and state in Massachusetts. The Bill of Rights gave to the parish or town not to

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[1] Buck, p. 41.

the church the exclusive right of electing the minister and contracting with him for his support. "This well-meant provision was the cockatrice's egg out of which those great judges, Parker and Shaw, successively sitting thereon, afterwards hatched dire mischief to the churches."[1] The Congregational church of Massachusetts now rested on popular suffrage. Any change, therefore, in the beliefs and opinions of the voters, was sure to manifest itself in the church, and, particularly, in the selection of a pastor. In 1818 it happened, in the little town of Dedham, that the pastor of the First church resigned to accept the presidency of a college. The orthodox Congregationalists had for a long time been in the majority here, and the town was supplied with a Congregational minister. But public opinion had been changing, and it was here first learned that the Standing Order, built on popular suffrage, must change as the sentiment of the people changes. The citizens of the town, as distinct from the church, decided to exercise the rights guaranteed to them under the Bill of Rights of 1780, and accordingly chose a minister for the town. They elected a Unitarian. The majority of the church true to Congregational orthodoxy, refused to accept the new minister. The matter was brought to the Supreme Court where the case was decided in favor of the parish. "Whatever, said Chief Justice Parker, the usage in settling a minister, the Bill of Rights of 1780 secures to towns, not to churches, the right to elect the minister in the last resort."[2] The Unitarian minister was given charge of the parish. Here was a Congregational church, the state church, under laws made by Congregationalists themselves, turned over to a sect with which the early Puritan would have had no sympathy. To the Unitarians, professing a doctrine that they hardly dared bring to the light, this orthodox church with all its funds was transferred. In this way many other churches of the Standing Order, with all their property, were turned over

[1] Chas. E. Stevens, *Essay on Church and Parish.* [2] Buck, p. 52.